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Mapplethorpe obscenity trial

Jury selection began September 24 in the obscenity trial of the Cincinnati Contemporary Arts Center and its director, Dennis Barrie. At issue are 7 of 175 photographs that appeared in the exhibition of the work of the late Robert Mapplethorpe last spring. The disputed photographs showed adult men in homoerotic poses and children with their genitals exposed (see *Newsletter*, May 1990, p. 80; July 1990, p. 119; September 1990, p. 155). [On October 5, the eight-person jury reached a verdict of "not guilty," after just three hours of deliberation. "The prosecution basically decided to show us the pictures so that we'd say they weren't art when everybody else was telling us they were," said juror Anthony Eckstein. "The defendants were innocent until proven guilty, and they didn't prove them guilty." The January 1991 *Newsletter* will include full coverage of the trial, its outcome and implications.]

The trial in Hamilton County Municipal Court is the first time in U.S. history that a museum and/or its director have stood trial on criminal charges that they pandered obscenity and illegally used minors by displaying their nude images. If convicted on the charges, the museum faces up to \$10,000 in fines and its director, Dennis Barrie, faces up to a year in prison and a \$2,000 fine.

Eight jurors and one or two alternates were to be selected from among fifty prospective jurors. Early questioning indicated that few panelists knew or cared much about art, and that most were deeply religious and strongly object to pornography and homosexuality. Of eight men and women questioned by the prosecution on the first day of jury selection, only three had ever been to an art museum. The rest said they had gone to other types of museums, but only on field trips in school. One man in his 50s said he had never been to any kind of museum.

Efforts by the defense to have the jurors interviewed singly were rejected by Judge David F. Albanese, who is up for reelection in 1993. Judge Albanese also denied several crucial defense motions, including one that would have limited the jury to residents of Cincinnati and excluded people from Hamilton County's conservative suburbs. The result was that most of the prospective jurors were from outlying areas, where anti-pornography sentiment is strongest.

Earlier, on September 6, Judge Albanese had rejected defense arguments that the obscenity charge should be dismissed because state obscenity law exempts legitimate art

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school censorship on rise

Sex, alleged Satanism and dirty words are the three main reasons citizens try to censor school books in this country, and the number of censorship attacks is up by more than 40 percent since 1988-89, according to a report issued August 29 by a watchdog group. In its eighth annual survey of school censorship efforts nationwide, People for the American Way cited 244 attempts in 39 states in the 1989-90 school year. The number of incidents was up from 172 in the 1988-89 report.

"This dramatic increase over last year's figure is no surprise," said People for the American Way President Arthur J. Kropp. "In fact, it fits rather predictably with what we've seen in the rest of society in the past few years." The totals reported by the group's report have risen each year since it began in 1982-83. That year, 57 censorship incidents were reported. The report does not claim to be complete or statistically representative and some of the increase is attributable to more thorough and improved reporting.

California recorded the highest number of incidents in 1989-90 with 69, nearly a third of the total. There were 15 incidents reported in Oregon, 14 each in Washington and New York, 13 in Michigan and 12 each in Florida and Texas.

"This report is a snapshot of the pressures being brought to bear on our public schools," said Donna Fowler, issues director for People for the American Way and author of the 104-page report. "It is by no means an exhaustive listing of every incident of censorship that occurred last year. We remain convinced . . . that many incidents of censorship go unreported."

"Instead of the three Rs, would-be censors seem preoccupied with the three Ss: swear words, satanism and sex," Fowler said. "These are not just concerned parents who want to protect their own children. Most schools will make such exceptions on an individual basis. In far too many of these incidents, the demand is for outright removal of the material."

Fowler said, however, that the rate of success of attacks was decreasing. "Materials were banned or restricted in just under a third of the challenges — still a troubling rate of success, but considerably better than last year's nearly 50 percent rate," she said. "Our research shows that in communities where schools and parents fight back, the censors rarely win."

Among the books that came under attack last year were: *The Hobbit*, by J.R.R. Tolkien, which was accused of promoting Satanism; *The Red Pony* and *Of Mice and Men*, by John Steinbeck, for offensive language; *Where the Sidewalk Ends* and *A Light in the Attic*, by Shel Silverstein, for promoting disruptive behavior and for sexual innuendoes and demonic overtones; *Catcher in the Rye*, by J.D. Salinger, for offensive language; *Cujo*, by Stephen King, for profanity and sexually explicit content; *The Color Purple*, by Alice Walker, for undermining family values; *Little Red Riding*

Hood, for its depiction of a grandmother drinking wine; *Blubber*, by Judy Blume, for offensive language; *Night*, by Elie Wiesel, because it is "depressing" and inappropriate because the past should be forgotten; and *Capital*, by Karl Marx, for being politically subversive.

The most besieged of all school books, according to the report, was the "Impressions" reading series, a series of story anthologies for students in kindergarten through the sixth grade. The California Board of Education approved "Impressions" for the curriculum earlier this year, but it has come under attack in at least 18 school districts in the state and a total of no fewer than 21 districts in the Far West as a whole, the report said. Three California districts removed the series from schools entirely after initially approving it, and two dropped it from pilot programs. In eleven cases, the reading series survived the attacks, and in two districts, the conflict remained unresolved.

Critics have complained that "Impressions" focuses on themes of death, violence and witchcraft, and teaches children disrespect for authority. But educators say the series is designed to inspire children to read by offering them more interesting stories than previous readers.

Mike Hudson, who heads People for the American Way's Los Angeles office, said protests against "Impressions" are organized by three California-based national organizations: the Christian Educators Association International, Citizens for Excellence in Education, and the Traditional Values Coalition. "All of the attacks on the 'Impressions' reading series were spurred on by these right-wing groups that have communicated with their friends in the various communities," Hudson said.

Also targeted across the country were books and plays about AIDS, books about male and female sexual development and books that assume evolution is a fact rather than a theory. The report found that groups favoring the teaching of creationism remain active in California and Texas, two states that dominate the textbook market.

In several Texas communities, school officials prohibited students from wearing jewelry, clothing or symbols alleged to be related to satanism or the occult. Included were all-black clothing, T-shirts depicting heavy metal music groups and the use of the "horned hand" gesture — a closed fist with the index and small fingers extended. The gesture was deemed to be satanic, although it is identical to the cheerleading gesture used by University of Texas fans to depict their mascot, a longhorn steer.

The report was challenged as "riddled with half-truths" by the Rev. Louis Sheldon, a Presbyterian minister who heads the Traditional Values Coalition in Anaheim, California. "It makes common sense not to give fifth- and sixth-grade children textbooks that deal in witchcraft, sorcery and occultic information," Sheldon said.

"The censorship movement in America is flourishing," Arthur Kropp stressed. "From novels to television programs

to fine arts to music to movies to textbooks, we are witnessing an explosion of censorship, an explosion sparked by the match of far right and religious right intolerance. The plain truth is that these extremists are frightened by ideas and unimpressed by facts," Kropp continued. "This head-in-the-sand approach to education has led the attackers to challenge everything from a play about AIDS to *Webster's Dictionary*." Reported in: *Atlanta Journal and Constitution*, August 30; *Dayton News*, August 30; *Fresno Bee*, August 30; *Hackensack Record*, August 30; *Prince George's Journal*, August 30; *St. Petersburg Times*, August 30; *San Francisco Examiner*, August 30, September 1; *Trenton Times*, September 2; *Vacaville Reporter*, August 30. □

NEA controversy continues

On September 12, the Senate Committee on Labor and Human Resources, which oversees the National Endowment for the Arts (NEA), approved a bill calling for a five-year extension of the endowment without restrictions on the kind of art the agency may support. The bill was amended, however, to require that any grant recipient convicted of violating laws on obscenity or child pornography return the money to the endowment.

The bipartisan compromise, which was passed by a 15-1 vote, resulted from months of negotiations among committee members, and its approval seemed to move the debate over the agency's future toward Congressional resolution.

"This amendment may not satisfy every single person's concerns on either side of the debate," Sen. Orrin G. Hatch (R-UT) said. "It does, however, address the issue head on and provides a method of enforcement in a constitutional manner."

The compromise had the support of both liberals and conservatives and was forged by Sen. Hatch and the committee's chair, Sen. Edward M. Kennedy (D-MA). Before approving the amendment, the committee rejected a proposal by Sen. Daniel R. Coates (R-IN) to write anti-obscenity guidelines for the endowment into the bill.

The day before the vote, the bipartisan independent commission created by Congress to review the NEA's grant-making procedures issued its report. That 12-member body, appointed by President Bush and the House and Senate leadership, unanimously opposed any new legislative curbs on the content of works supported by the endowment. Sen. Hatch referred to the commission's report in urging the committee to reject Coates' proposal, citing the commission's finding that the NEA is "an inappropriate tribunal for the legal determination of obscenity."

Earlier in the summer, on August 1, the NEA's own National Advisory Council voted 17-2 to urge NEA chair John Frohnmayer to rescind a controversial requirement that grant recipients sign a pledge that they will not use federal funds to create "obscene" art. The council voted more nar-

rowly — 12-7 — to give a deferential nod to Congress by noting that its resolution was not intended to encourage grantees to violate the law.

The compromise amendment mandates the repayment of money by any individual or organization that creates or produces work that is found obscene in criminal court. It also bans such an individual or organization from receiving endowment grants for three years or until the money is repaid, whichever is longer.

The proposed legislation also calls for a number of changes in NEA procedures like including nonartists on the grant-making peer panels; insuring geographic, aesthetic, ethnic and minority representations on the panels; requiring that a verbatim record be kept of all panel meetings, and calling for open meetings of the endowment's National Advisory Council.

Sen. Hatch acknowledged that the measure, if passed, would engender a number of lawsuits, an assessment agreed with by Joseph Papp, producer of the New York Shakespeare Festival and a prominent opponent of efforts to restrict NEA's artistic autonomy. "It's not going to satisfy the critics," Papp said. "The endowment should make their arts decisions and stay with their arts decisions, and not be part of any punitive action as a result of a court decision about an artist."

The NEA's statutory authority was set to expire September 30. Even if the Kennedy-Hatch bill draws strong support in Congress, Senate rules permit amendments during floor debate, and Sen. Jesse Helms (R-NC) was expected to introduce some.

The August meeting of the endowment's advisory body saw the continuation of controversy over proposed grants to performance artists. When council member Harvey Lichtenstein, president of the Brooklyn Academy of Music, attempted to raise the issue of Frohnmayer's rejection of four performance art grants (see *Newsletter*, September 1990, p. 151), he was ruled out of order. Frohnmayer caught council members off guard by saying that discussion was inappropriate because he was considering appeals by the rejected artists. The meeting was opened to the public only after the *Los Angeles Times*, *New York Times*, *Washington Post* and *Philadelphia Inquirer* sought a court order preventing NEA from closing parts of the meeting.

Later in the meeting, the council refused to recommend funding for a pair of grants that would support work by controversial performance artists Karen Finley and Holly Hughes. The council withheld its approval on procedural grounds, effectively enabling Frohnmayer to sidestep a decision on funding artists targeted by the endowment's critics while the Congressional funding fight continued.

Acting on a recommendation by Frohnmayer, the council made an apparently unprecedented decision to withhold approval of five grants in an experimental art category because of a possible conflict of interest involving the panel that reviewed the applications. The advisory group backed

Frohnmayr's proposal to submit the applications to a new review panel and reconsider them at the council's next meeting in November.

Frohnmayr emphasized that the original panel was "properly constituted" and said he had "absolute confidence in the integrity" of the panel members. But he said the NEA faced "a problem of perception and a possible real conflict of interest" because its rules in the area were "inadequate."

Finley and Hughes were among four artists whose applications in the performance art category were previously rejected by Frohnmayr. Both had been singled out by endowment critics on grounds that their work is potentially offensive or obscene. Both also had additional applications in the experimental interdisciplinary art category that came before the council in August after being approved by peer panels and staff.

Hughes, who observed part of the meeting, said the issue was "a bogus thing. They do not want to fund openly lesbian and gay art, art that deals with sexual politics." The action also was denounced as "a complete sham" by Bobbi Tsumagari of the Kitchen, a New York organization that sponsored Finley's application. "The McCarthyism of the '90s has spread not only to Karen Finley, but to people who associate with Karen Finley. It's spread from Congress to the [NEA] council," she said.

On other fronts, the endowment faced legal challenges from opposing sides of the debate over arts funding. In July, a lawyer filed suit against NEA and Frohnmayr charging that the endowment's \$15,000 grant for artist David Wojnarowicz's controversial exhibition at Illinois State University (see *Newsletter*, July 1990, p. 119; September 1990, p. 168) displayed "open and notorious hostility toward religion" and violated the Constitution. The suit was filed by the Rutherford Institute on behalf of David Fordyce, a self-described "devout Christian" from Los Angeles.

The Fordyce suit alleges that the NEA-funded catalogue for the exhibit included an image depicting Jesus Christ as an intravenous drug user. It said the catalogue also contained derogatory references to Roman Catholic Cardinal John O'Connor of New York.

Fordyce said NEA support conveyed "a message of hate and animosity toward institutionalized religion" sponsored by the federal government in violation of the First Amendment.

The endowment was already the target of two other lawsuits in New York and Los Angeles, challenging Frohnmayr's requirement that grant recipients sign a pledge of compliance with a Congressional ban on using federal funds for works that may be deemed obscene. On July 31, Frohnmayr testified by deposition in the New York case, in which the New School for Social Research is challenging the constitutionality of the pledge.

Frohnmayr testified that he had never rejected a grant simply because it might be considered obscene or controversial. He said rejection decisions, including the rejection of

the four performance artists, were based on "many factors," including whether a project would enhance public understanding and appreciation of the arts. Asked whether he is entitled to consider "political realities" in evaluating grant applications, Frohnmayr said, "I don't think it is a criterion in funding decisions."

Frohnmayr also testified that the endowment might release funds to successful applicants who delete the pledge as long as they also indicate that they are prepared to obey the law. Reported in: *New York Times*, August 25, September 13; *Washington Post*, July 31, August 1, 4, 6. □

2 Live Crew's travails don't end

The censorship controversy over the lyrics of songs by rap group 2 Live Crew, whose *As Nasty As They Wanna Be* album was declared obscene by a Florida judge in June (see *Newsletter*, July 1990, p. 138; September 1990, p. 156), continued to mount over the summer as efforts to ban the group from performing and to halt sales of their recordings — including their new record, *Banned in the USA*, released in response to the Florida *Nasty* ruling — spread to Texas, Indiana, and New England. Other rap artists were also feeling the heat. On August 15, Geffen Records announced that it would not distribute the debut album of The Geto Boys, citing explicit lyrics.

The summer's controversies over rap music included the following developments:

- In Hollywood, Florida, three members of a New York rock band and a nightclub owner were arrested August 11 after the band played songs from 2 Live Crew's *Nasty* album to protest censorship. Too Much Joy performed for about 350 people at Club Futura to protest the arrests of three members of the controversial rap group two months earlier and to raise money for their legal defense. "We played a game of constitutional chicken, and the group Too Much Joy lost," said Robin Blumner, executive director of the ACLU in Florida.

- In San Antonio, Texas, on July 24, record store owner David Ward Risher pleaded not guilty to obscenity charges filed after he refused to stop selling albums by 2 Live Crew. Risher, owner of Hogwild Records and Tapes, said he was angered by the charge and by the decision of police and the district attorney that *As Nasty As They Wanna Be* is obscene.

"Somebody had to do it," Risher said. "If they came in and said you can't sell this and every record store said, 'OK, we won't sell it,' then where will they come in next? After the record stores, if this crusade gains momentum, would they be going to the libraries and to the newspapers?" If convicted, Risher faces up to one year in jail and up to a \$2,000 fine.

- On July 27, prosecutors in Dallas, Texas, filed misdemeanor charges against two retailers for selling *As Nasty As They Wanna Be* to minors. The action marked the first time

in the U.S. that criminal charges were brought against a corporation for distributing the album. Sound Warehouse, Inc., of Dallas was charged with eight counts of obscenity violations and Hasting's Records and Tapes, based in Amarillo, with one count.

Assistant District Attorney David Pickett said his organized crime division had studied the lyrics of the 2 Live Crew album and deemed them "obscene as defined in the Texas Penal Code." According to Pickett, the album includes 87 descriptions of sex acts and 117 explicit references to male and female genitalia. Investigators found copies of the album in at least eight Sound Warehouse stores and one Hasting's store. Charges were filed after a 13-year-old boy, working undercover for the district attorney, purchased a copy of the recording.

"Hopefully, the result of this will be to get the retailers to review what they're selling to the public," said Pickett, who is also a Republican candidate for a state district judgeship. The "average person in our community" would find the lyrics obscene, he said, adding that he believed that prosecutors will have no difficulty winning convictions. "I guarantee you we can prove our case," he said.

Earlier in July, a 12-minute melee by 2 Live Crew fans broke out at Dallas' Longhorn Ballroom after the group refused to perform because of a pay dispute. At least four people were slightly injured, and \$50,000 to \$250,000 in damage was caused at the nightclub.

- In Kokomo, Indiana, Howard County Judge Randy G. Hainlen ruled July 27 that *As Nasty As They Wanna Be* violates community standards of decency and ordered a prohibition on the sale to minors of the album. Hainlen acted after reviewing a probable-cause affidavit submitted by prosecutor James D. Andrews and listening to the album in his chambers. Two days later Andrews announced that his office had reached an agreement with the 23-store Karma Records chain to ban all sales of the *Nasty* album in the county. Karma had previously announced that it would not sell the recording to anyone under the age of 18.

- In Hampton Beach, New Hampshire, the State Liquor Commission amended a regulation requiring special licenses for clubs with "exotic dancers and other unusual entertainment" to also include "entertainment . . . that was banned in other states." The measure was part of an effort to prevent a performance by 2 Live Crew, which had been scheduled for the Club Casino on July 23 but was postponed at the last minute by the group's manager. Previously, the Hampton Beach Board of Selectmen had tried unsuccessfully to cancel the performance and Governor Judd Gregg called the rap group an affront to "our New Hampshire way of life," calling for the cancellation of its performance.

Gregg said Club Casino management showed "extremely poor judgment" in booking the group, calling the rappers "totally inconsistent with the tradition of Hampton Beach as a family resort area." The governor said he had not seen

the group perform but had read reviews. "The performance is clearly obscene," he concluded.

- In Westerly, Rhode Island, the town council held a hearing September 4 to question an October 6 appearance by 2 Live Crew at the Windjammer nightclub. The council asked Attorney General James O'Neil to determine if the group's lyrics violate state laws. The council was also expected to hold a hearing to determine if the club, which holds 1,500, can safely handle a capacity crowd.

"We can't do much about the morals because the Constitution apparently says it's a free speech issue," said councilor Robert Mudge. "But we're going to look at the public safety issue because we're concerned that all hell might break loose at that show."

- In Chapel Hill, North Carolina, the owner of a record store pulled *As Nasty As They Wanna Be* from his store after Orange County District Attorney Carl R. Fox threatened to prosecute him. Police warned the owner of Schoolkids' Records that he would be prosecuted if he did not stop selling the album July 9.

David Harvey, owner of the store, said he complied reluctantly. "I felt like I was in Nazi Germany when the police came in here," Harvey said. "It's intimidating and it makes me angry. I never thought this would happen in Chapel Hill. This has always been the liberal bastion of North Carolina."

- A number of large video and record store chains refused to stock the video of 2 Live Crew's *Banned in the USA*. Among those declining to sell the video were the 910-store Musicland Group, 260-store Camelot Music, 210-store Erol's, and the 435-store Super Club video outlet. The nation's largest video store chain, Blockbuster Entertainment, also opted not to stock the video, though franchises can sell it if they choose.

- The August 15 announcement by Geffen Records of its decision to cancel its agreement with Def American records to distribute the first national album by the Houston rap group Geto Boys culminated a month-long struggle. A statement from Geffen Records said, in part, "While it is *not* imperative that lyrical expressions of even our own Geffen artists reflect the personal values of Geffen Records, the extent to which the Geto Boys album glamorizes and possibly endorses violence, racism and misogyny compels us to encourage Def American to select a distributor with a greater affinity for this musical expression."

At first, Geffen was going to distribute the record under the Def American label without a Geffen logo. The album cover was to have included both the standard Parental Advisor sticker and the statement: "Def American Recordings is opposed to censorship. Our manufacturer and distributor, however, do not condone or endorse the content of this recording, which they find violent, sexist, racist, and indecent."

In mid-July, the company that had been contracted to press compact disks of the album — the Digital Audio Disc Corporation in Terre Haute, Indiana — refused to manufacture the album.

The Geffen decision prompted charges of racism. The group maintained that the company distributes controversial albums by such white performers as Guns 'n' Roses, Aerosmith, and Andrew Dice Clay. The Geto Boys album is an outburst of rage set to stripped-down, propulsive funk in the "gangster rap" style of rappers like N.W.A. and Ice Cube. It includes songs about a psychotic rapist and murderer and a liquor store robbery, but also an anti-drug song and "City Under Siege," about corruption, police brutality, the drug problem and black poverty. "They don't care about niggers on welfare," the rap goes, "as long as their kind ain't there."

"Love, sex, war and politics — that's what the album is about," said Bushwick Bill, a member of the group. "We were just expressing stuff that happens in the ghetto, just being like reporters. We want to make everybody mad enough to look at the ghetto right in their own state, not just to look at the middle class and the rich areas. There are people who curse worse than me and want to hide it all, but I ain't no hypocrite." Reported in: *Billboard*, September 1; *Boston Herald*, July 27, September 5, 6; *Chicago Tribune*, July 25; *Concord Monitor*, July 13, 20, 24; *Dallas News*, July 28; *Fort Wayne News-Sentinel*, July 30; *Fort Worth Star-Telegram*, July 9; *Houston Post*, August 17; *Indianapolis News*, August 1; *Indianapolis Star*, July 29, 31; *New York Times*, August 28; *Raleigh News and Observer*, July 11; *San Antonio Express-News*, July 25; *San Antonio Light*, July 25; *Variety*, August 22; *Washington Post*, August 13. □

NC-17 to replace X in MPAA ratings

In the most far-reaching revision of the movie rating system since its introduction in 1968, the Motion Picture Association of America (MPAA) announced September 26 that it had created a new "No Children" category for adult films to replace the "X" rating that became synonymous with pornography and the focus of a bitter dispute. The new "NC-17" category will be applied to movies that include adult themes or content and is intended to deny admission to such films to all viewers under 17 years of age.

As part of the overhaul of the ratings system, the existing R, or Restricted, rating will be clarified to include an explanation to exhibitors and film critics telling why a particular film has been placed in that category. The explanations, which could involve such themes as sex, violence, profanity, drug use or suicide, would then be made available to parents and moviegoers.

The decision followed a growing chorus of complaints by film makers, independent production companies and some critics that the X rating had been applied unjustly to serious films including scenes of sex or violence. At the same time, parent and religious groups were critical of various aspects of the system.

"We are taking the name 'X' and discarding it, not adding a new adults-only category," MPAA President Jack Valenti said. "This will give parents more useful information so they themselves can decide which films their children can see."

The new NC-17 category went into effect immediately. The first film to come out with the new rating was director Phil Kaufman's *Henry and June*, the story of a *menage-a-trois* among the author Henry Miller, his wife, June, and the writer Anais Nin. Kaufman and Universal Pictures had previously protested the MPAA's initial decision to award the film an X unless five scenes were altered.

In announcing the changes, the association said that NC-17 films would "continue to be evaluated as X-rated films have been in the past, that is, on the basis that most parents would agree that such a film should not be made available for viewing by youngsters." No explanation of why a film is given the NC-17 rating will be offered to the public.

Association officials said the new NC rating would be trademarked to prevent its unauthorized use by others. Unlike G, PG, PG-13, and R, the X rating was not an exclusive MPAA trademark and thus could be self-applied — usually by pornographers who label their films XXX. Most theater owners refuse to book X-rated movies, and most newspaper and TV-station owners will not allow them to be advertised. The association's failure to obtain a trademark for the X category thus compelled the makers and marketers of serious films to avoid an X rating at all costs.

Valenti insisted that no single film had influenced the MPAA's decision, but many movie industry figures said that the immediate catalyst for the changes was the X given to *Henry and June*. Kaufman, supported by Universal Pictures and advised by Harvard law professor Alan M. Dershowitz, had intended to challenge the rating given the film at a hearing in New York. "It's great that the MPAA has been bold enough to change the guidelines of a system that had fallen into disrepair," Kaufman said.

The first eight months of 1990 saw an explosion of controversy over the MPAA rating system, as rating board chair Richard Heffner and his colleagues issued X ratings ("persons under 17 not admitted") to art films like the obsessive love story, *Tie Me Up! Tie Me Down!* the controversial character study *The Cook, The Thief, His Wife, and Her Lover* (see *Newsletter*, September 1990, p. 162), and the clinically psychological *Henry: Portrait of a Serial Killer*, while granting R ratings ("persons under 17 not admitted unless accompanied by parent or adult guardian") to violent action films like *Total Recall* in which hundreds of people are shown dying, often in gruesome ways.

In August, the *New York Times* agreed to run a film ad containing a distributor's self-applied A rating to a film given an X by the MPAA. Silverlight Entertainment created its own rating and artwork for Wayne Wang's film *Life is Cheap . . . But Toilet Paper is Expensive*. In the ad, a large letter "A" appeared along with the statement: "This film contains

adult themes or images that may be inappropriate for viewers under 18 years of age." The ad went on to challenge the MPAA system on grounds of corporate censorship, and to attack the system as not serving "the best interests of the public."

Life is Cheap was produced by an independent company, but *Henry and June* is a Universal Pictures release and, like all major studio releases, must go out with an MPAA rating. It's also Kaufman's first film since his prize-winning *The Unbearable Lightness of Being*, released in 1988. Kaufman also directed the 1978 *Invasion of the Body Snatchers* and 1983's *The Right Stuff*. He was contractually obligated to deliver an R-rated film to the studio.

Kaufman said that when he made *Henry and June*, which depicts the emotional and sexual entanglements of Nin, Miller and Miller's second wife, June, he followed "the same guidelines that I used on *The Unbearable Lightness of Being*, which was given an R. *Unbearable* was in some ways more explicit. I wonder if this film isn't encountering stiffer opposition because it focuses on a woman's search for sexual self-realization and understanding, and it explores some of the mysteries of sexuality. It may also have something to do with this movie's treatment of adultery, which is what

novels like *Madame Bovary*, *Lady Chatterley's Lover*, and *Ulysses* are also about."

Kaufman questioned why the ratings board gave David Lynch's *Wild at Heart* an R, but, before the new NC-17 rating was adopted, advised an X for *Henry and June*. "I have the greatest respect for David Lynch, but his film has both sexuality and violence and is intended for a younger audience and stars younger people. My film is intended for an older audience; after all, it's about a middle-aged guy named Henry Miller who was having a documented love affair 60 years ago. All of this has been published in books and younger people can read about it if they want to in any serious bookstore in the country. But telling this story has caused the board to ask that I look again at certain scenes that they feel fall into an X category."

To Kaufman, the irony of *Henry and June* is that it too is about censorship: "The characters watch movies that are banned in many countries, like *Ecstasy*, *Un Chien Andalou*, and *Maedchen in Uniform*. And Henry Miller's books were banned for 27 years." Reported in: *New York Times*, September 27; *San Francisco Examiner*, August 27; *Variety*, August 8. □

in review

The Handbook on How to Use the Freedom of Information Act: Holding the Government Accountable For Its Actions. The Church of Scientology, Western United States, 1989. 45 p. \$4.50

This glossy 46-page handbook contains all the basic information needed to use the Freedom of Information Act (FOIA) to request documents from government agencies. The booklet contains sections on the purpose of the Act, how the Act works, how to write an FOIA request letter, and what to expect in a response. It also discusses in practical terms how to appeal an inadequate response, and the benefits versus the costs of enforcing an FOIA request through litigation. Useful appendices include a glossary of terms, the text of the Freedom of Information Act and the names and addresses of federal government agencies, as well as groups who can be helpful in pursuing Freedom of Information Act requests or providing additional information about the Freedom of Information Act.

For the most part the booklet is straightforward and written in an easy-to-understand, non-legalistic style. Occasionally, however, it crosses into political advocacy, particularly in a section on the future of the Freedom of Information Act which urges FOIA reform, and includes proposed amendments to the present law. A section on abuses provides some chilling examples of resistance to the Act by government agencies such as the IRS and FBI, including withholding of documents on the basis of national security or privacy, when

neither reasonably seemed implicated (e.g., the compiling of a file in an investigation of a 12-year-old student who had simply written to other nations to obtain information. The FBI denied access to the file on the basis of national security.)

Unfortunately, the section on "abuses" ultimately diminishes the booklet's credibility, as it strays outside the bounds of a "how-to" handbook to advance the Church of Scientology's views. For example, the international law enforcement agency, Interpol, is accused of being involved with drug trafficking. Without explanation or citation to underlying sources, the booklet accuses Interpol of gathering information on American citizens, and distributing false and inaccurate information to foreign police and government agencies. The booklet goes on, however, to present some good examples of how useful the Freedom of Information Act has been in revealing important information on government abuses of individual rights and inappropriate overreaching of government agencies.

The nuts and bolts sections on how the FOIA works and how to write an FOIA request letter are factual and helpful. Sample FOIA letters provide good guidance and give the reader an idea of the kinds of specifics to include. The booklet is well-organized, graphically pleasing, and easy to understand. The glossary assists in understanding terms used in Freedom of Information Act letters and responses, etc.; it also includes a helpful index. The handbook should provide a useful step-by-step guide to those considering making use of the Freedom of Information Act for the first time.—*Reviewed by Anne E. Levinson, American Library Association, 50 East Huron Street, Chicago, Illinois.* □

first national survey since *Hazelwood* student press censorship now “fact of life”

For the first time since the U.S. Supreme Court's 1988 decision in *Hazelwood School District v. Kuhlmeier*, a nationwide survey of high school principals and student newspaper advisers has shown that censorship of student newspapers “seems to be an accepted fact of life at high schools across the United States.”

J. William Click, professor and chair of the Department of Mass Communication at Winthrop College in South Carolina, and Lillian Lodge Kopenhaver, professor and associate director of the School of Journalism and Mass Communication at Florida International University, administered the 41 question survey to 531 student newspaper advisers and an equal number of principals during the spring and summer of 1989. Kopenhaver is past-president and board member of the Student Press Law Center, a non-profit, Washington-based organization that provides free legal assistance to student newspapers. The results were presented before the Secondary Education Division of the Association for Education in Journalism and Mass Communication at its national convention in August.

The results showed that only a minority of respondents felt that *Hazelwood* changed the status of their student newspaper; eight percent of principals and 17 percent of advisers said that it had. Eight percent of principals and 12 percent of advisers said they had experienced censorship problems in the year preceding the survey.

Click and Kopenhaver said their study suggested that high school newspapers experience a high level of censorship and that *Hazelwood* had increased that level slightly. Fueling this opinion is the fact that many principals or advisers who responded to the questionnaire did not understand *Hazelwood*. For example, more than half of the principals and more than a third of the advisers disagreed with the statement: “If student editors in written policy or practice have been granted final authority over the newspaper's content, they still have the right to that free expression after the *Hazelwood* decision.” As stated in *Hazelwood*, only those publications that have not been opened as public forums for students properly fall under the ruling's mandate.

Since the *Hazelwood* decision, complaints of censorship from across the country have swamped the Student Press Law Center. The center received 548 requests from students and newspaper advisers in all of 1988. In 1989, the number increased to 615, up 12 percent. Early indicators suggested a dramatic increase this year. In the first six months of 1990, legal calls to the SPLC totaled 507, up over 94 percent from the same period in 1989.

“We were seeing students doing a wonderful job covering issues for their community, and now they are not able to because schools are feeling more leeway to censor,” said

Mark Goodman, Executive Director of the Student Press Law Center. “What we run a risk of is a decrease in quality of student newspapers and an increase in the lack of respect for the Constitution and the First Amendment.”

Although it was apparent to Click and Kopenhaver that strict control is being placed on student publications, they stated that they were more concerned with the fact that many advisers agree with principals on statements that indicate censorship. Even when the groups disagree, advisers do not overwhelmingly support a free student press. Only 44 percent of advisers agreed that once students have been trained in press responsibility, they should have control over all editorial content. Also, only 35 percent of advisers disagreed that the faculty adviser is ultimately responsible for the newspaper content rather than the student editors.

Sixty-seven percent of advisers surveyed agreed that the student newspaper should be allowed to print a story that it can prove is true even if the printing will hurt the school's reputation. Seventy-seven percent of the advisers disagreed that school administrators should not have the right to prohibit publication of articles they deem harmful, even though such articles may not be legally libelous, obscene or disruptive.

In some areas, principals showed support of the student press. A clear majority of 81 percent disagreed that the student newspaper should limit its reporting to school-related issues; 74 percent disagreed that high school students are too immature to practice responsibly freedom of the press; and 84 percent disagreed that controversial issues have no place in a student newspaper.

While some principals affirmed their faith in their newspaper advisers, a large number asserted their rights of control. A Minnesota public school principal stated in the open-ended portion of the survey, “Censorship and control are part of the educational experience — that is what we (public and private education) have been doing over the past 100 years.”

Some advisers stated that a new breed of student journalist was emerging with less concern about controversial issues. A Nebraska public school newspaper adviser said, “The students that I am getting these days are not nearly as aggressive as in years gone by. This year in particular, we tend to be more concerned with what we can and cannot do with a Macintosh than what we should be covering in the newspaper.”

The report concludes that *Hazelwood* may signal a change in the student press: “The *Hazelwood* decision has certainly had an effect on freedom of the student press, both in reinforcing those who were already censoring and in providing a note of caution to others that maybe they should leave controversy alone. . . . Now, maybe, with the threat of censorship both subtle and overt so strong, that encouragement [to report on controversial topics] is waning, and student newspapers may become less the vehicles for free student expression than for reporting bulletin board information.” Reported in: *SPLC Report*, Fall 1990. □

AAParagraphs

new hand in Jefferson-land

Librarians have every reason to welcome a new player on the First Amendment field—especially one as strategically situated as the new Thomas Jefferson Center for the Protection of Free Expression: its headquarters stands virtually in the shadow of Thomas Jefferson's sprawling Monticello estate.

But librarians also have reason to be concerned at the first findings of a survey conducted by the new Jefferson Center. It was Jefferson who, it will be remembered, first declared that he would prefer newspapers without a government over a government without newspapers—only later to have reason to modify that view considerably. Perhaps it was the sense of Jefferson's "second opinion" that underlies the views of a nationwide, randomly-selected sample of some 1,500 adults reached in a telephone survey conducted for the September dedication of the new Center (see page 227).

Yes, nine out of ten of those surveyed believe government must not be able to tell them how to vote, what to say in public, or what books to read. And yes, librarians should welcome the fact that seven out of ten thought parents, not government, should keep watch over what their kids see on TV.

But nearly half of those surveyed thought government should hold censorship power over some facets of the media or the arts, and slightly more than half claimed for government the right to ban the sale of records, discs, and tapes with sexually explicit content.

In the early survey findings by National Research Corp., Center Director Dr. Robert M. O'Neil found evidence of an "alarming double standard—a sense that the First Amendment protects what one person wants to say, but not necessarily what his or her neighbor wants to say." The freedom of expression, the survey discovered, is seen to lie in pure speech, but not necessarily in other forms of expression—music, the arts, even freedom of the press.

Behind the survey findings, wrote columnist (and thoroughgoing Virginian) James J. Kilpatrick, a member of the center's board of trustees, lies the fact that "The American people, God bless them, are a mixed-up bunch." Of their inconsistent views on censorship, Kilpatrick added in a recent column, "the most plausible interpretation is that the people are simply being their potty little hypocritical selves. They want freedom for themselves, but not for the other fellow. Don't tell me what I may say, or read, or listen to! But then again, you know, it's perfectly OK to tell somebody else that he may not express himself in ways that offend me. The people would have their dirt and forbid it too."

Clearly, the First Amendment "is in perilous condition across the nation," declared Dr. O'Neil at the first of two dedication ceremonies, held on the grounds of Pantop Farms, just behind the handsome white mansion that houses the new,

nonprofit, nonpolitical center he heads. The second and principal dedication took place a few hours later at, appropriately, the Jefferson Memorial in Washington.

O'Neil, a noted First Amendment-alist, resigned as president of the University of Virginia after a five-year, not altogether blissful, tenure. He clearly has found his niche as Director of this loosely university-related venture. The Center is the brainchild of Thomas E. Worrell, Jr., chairman and president of Worrell Enterprises, which publishes Charlottesville's daily newspaper, *The Daily Progress*. (In addition to Worrell's \$3.5 million initial funding, there are lesser grants from the New York Times Company Foundation and the American Publishing Company, with the hope of reaching a \$13 million endowment by 1992.) Newly elected chairman of the Center board is Washington First Amendment lawyer Bruce W. Sanford.

The Jefferson Center will direct its activist efforts for freedom of expression in research, litigation, education, and even mediation. While not unique on U.S. campuses, the Virginia center may stand out due to O'Neil's determination to do more than study First Amendment problems. Clearly, he believes that Pantop Farms can become an assembly point for holders of opposing views on a number of controversies that rend this country. The arts probably will come first, but following close behind will be an approach to political campaign reform, and how much protection the First Amendment accords commercial speech.

O'Neil's name should be familiar to readers of this *Newsletter*. Before his Virginia presidency, he spent five years as president of the University of Wisconsin, prior to which he was president of Indiana University and provost of the University of Cincinnati.

A former law clerk to recently retired Supreme Court Justice William Brennan, O'Neil has played many book- and library-related roles, having keynoted an ALA/AAP symposium on school book censorship, and headed a commission, formed by the American Association of University Professors (AAUP) on academic freedom and pre-college education. AAUP commissioned the study "out of concern for mounting efforts to censor public school textbooks, reading lists, and library materials." (Among members of that commission were representatives both of AAP, attorney Heather Grant Florence, and of ALA, Sharon Rogers.)

When he concludes his term as chairman of the National Association of State Universities and Land Grant Colleges, O'Neil will assume the additional duty of AAUP general counsel.

Of his Charlottesville enterprise, O'Neil told the first dedication ceremony: "The agenda of this Center is clear enough. We intend to help resist threats to the First Amendment—whenever and wherever they occur."

He welcomes allies. □

This column is contributed by the Freedom to Read Committee of the Association of American Publishers and was written for this issue by Richard P. Kleeman, consultant to the Committee.

— censorship dateline —



libraries

Sauk Village, Illinois

Television cartoon character Bart Simpson has been officially banned from the Nancy L. McConathy Library, along with satanic T-shirts, see-through blouses, and micro-miniskirts. But the ban on Bart applies only to employees at the library, not patrons, according to librarian Nanette Wargo.

"Personally, I watch 'The Simpsons,' and I own a T-shirt, and my sons own three," said Wargo, who described herself as a "truly irreverent librarian." But, she said, "We have to be cautious. Some people are very sensitive over anything."

Specifically, she said, the Chicago suburb's Library Board, which passed its dress code in early September, was worried about the "I'm Bart Simpson — Who the hell are you?" T-shirt that is popular among some high school students who work part-time at the library.

"'Hell' is not acceptable on a T-shirt to many people," Wargo said. It's banned, along with some other T-shirt words, messages promoting satanism, and see-through blouses like that worn by one student employee last year. "I'm one of those people who believe in wear-what-you-please," she continued. "But working here, you don't want to offend anyone." Reported in: *Chicago Tribune*, September 4.

Mankato, Minnesota

An ad hoc public school committee supported removal of books by Christian psychologist James Dobson from the library of the Early Childhood Family Education Program of the Mankato school system. Abby Draper, director of the program, told Religious News Service that the recommendation, which was disclosed by the *Twin Cities Christian*

newspaper, was supposed to have been kept confidential until it is acted on by the Mankato District School Board.

The Dobson books, which support corporal punishment, were removed from the library in 1989. Parents who inquired about them early this year were told they had been removed because the staff disagreed with Dobson's views on child discipline and because of the religious nature of his philosophy.

In May, a group of parents submitted a petition calling for return of the books (see *Newsletter*, September 1990, p. 161). The Rev. David Thompson defended Dobson at a school board hearing in June. "Corporal punishment in the hands of a loving parent can be a very effective discipline tool," he said. "That's on the condition that it's used correctly. There's precedent in scripture for corporal punishment." The review committee was formed to examine the complaints of the parents. Reported in: *Washington Post*, September 1.

Gibsonia, Pennsylvania

Two controversial novels, removed last year from library shelves at Pine Middle School at the request of a group of parents, will remain off the shelves, the Pine-Richland school board decided August 28. The board was divided 4-4, with board President C. Stanley Boone abstaining, on a recommendation by the district's library committee to return *Stage Brat* and *Alice With the Golden Hair* to the library.

Stage Brat, by Susan Terris, is narrated through the eyes of a 12-year-old girl trying out for a part in a play, and contains her observations of language and attitudes of an older girl in the theatrical company. *Alice With the Golden Hair*, by Eleanor Hull, involves a woman overcoming racial prejudice while working in a mental institution. Parents objected more to its adult language than the theme.

In December, 1989, a group of parents asked the board and Middle School Principal Sherry Burnett to remove the books, claiming that they contained objectionable language and themes. Parent Gail Berryman took particular exception to *Stage Brat*. "It talks of adults slithering around in hot tubs, abortions, palm reading and horoscopes as ways of making life decisions, anti-religious language and four-letter words," she said. "I don't wish to shield children from the realities of life, but I think we should continue to maintain high standards in our schools."

The books were then checked out to the review committee, comprised of the principal, the superintendent, a librarian, a board member and a teacher. The committee recommended placing the book back in the library, but the school board disagreed.

Board member Jacqueline M. DeStefano, who defended the library committee's recommendation, said she believed school boards did not have the constitutional right to remove books from school libraries. She said the novels could not be judged by lifting words and themes out of context.

But board member Edwin R. Brown criticized *Stage Brat* for containing language that "slaps Christianity in the face" and for "making a pitch for abortions and astrology as a religion." Brown also said *Stage Brat* contained mention of a sexual relationship between two women.

Director Raymond Smay said he voted against returning the books because "I don't want to give the librarians the idea they have our approval for these types of books." Reported in: *Pittsburgh Post-Gazette*, August 30.

Buckhannon, West Virginia

A mystery censor tore a page out of a library book featuring photographs of developing fetuses. Upshur County Library employee Karen Heater noticed the missing page when she attempted to repair *How I Was Born* after receiving a request for the book. Kathy Wingfield, the library's interlibrary loan clerk, said she sent requests for the book to three of the ten state libraries listed as having a copy. One library reported the book missing and copies sent by the other two were missing the same page. Wingfield said she then called six of the other libraries before locating an intact copy.

The missing page shows a picture of a woman giving birth on one side and frontal nude photographs of four males and four females of various ages on the other. The book was published in Sweden in 1975 and uses photographs of developing fetuses taken by Lennart Nilsson. Reported in: *Charleston Gazette-Mail*, September 2.

schools

Shingletown, California

After complaints from parents that a series of reading books was too morbid and violent, trustees of Black Butte School District unanimously agreed in early September to exchange them. The district will swap all copies of the "Impressions" reading series texts published in 1989 with the Canadian publisher Holt, Rinehart and Winston, Ltd., for updated 1990 versions.

But even that compromise was rejected by opponents of the series "because very few [things] have been changed in the books. They still contain objectionable materials," said Anna Hansen.

Originally purchased in 1988, the kindergarten through sixth-grade reading series was attacked by Hansen and others for stories that allegedly contain "excessive violence and morbidity," an "emphasis on evil and witchcraft," promote "disrespect for parents and other authorities," and have a Canadian emphasis.

The reading series has come under assault in at least 18 other California school districts this year (see page 201). Reported in: *Redding Record-Searchlight*, September 6.

Anne Arundel County, Maryland

Barry Louis Polisar warns parents that his songs — numbers like "Never Cook Your Sister in a Frying Pan," "My Brother Thinks He's a Banana" and "Don't Put Your Finger Up Your Nose" — aren't fit for adult ears. Songs about sticking fingers up your nose, mean teachers and throwing up on toy bunnies are subjects only a child can understand, the singer-songwriter says. But Anne Arundel County school officials say Polisar's satirical songs and books aren't fit for students, either. Polisar, who has been singing and writing his brand of child humor for 15 years, was banned this year from the county's 70 elementary schools.

A ten-member evaluation committee — composed of seven teachers, one parent, a high school student and an administrator — ruled that Polisar's nine records, six books, and two videos were "unsuitable for use as instructional material," according to Bruce Horner, the school system's music coordinator. In addition, Polisar said that he was "disinvited" from appearing at a showcase for school performers sponsored by the county's Commission on Culture and the Arts. On September 7, the singer, who lives in nearby Silver Spring, found that a scheduled appearance at the Colgate Elementary School in Dundalk was canceled.

Horner said the committee agreed unanimously that "a child who might have emotional problems would tend to regard the songs literally. Satire taken literally and acted out can be a very bad thing." He said the committee thought Polisar "wasn't a good model for the kids," adding that the entertainer "had a poor vocal quality."

"This isn't a matter of censoring or banning — schools are not an open arena," added Dennis G. Younger, executive director of curriculum.

"This is the first time all my stuff has been singled out," said Polisar. "Believe it or not, there are things I've written that aren't subversive in the least."

"When I'm singing about kids who are fighting, I'm not advocating bad behavior. . . . I am pulling it out in the open and singing a funny song about it. That's better than pretending those things are not happening," the singer added.

Polisar also noted that his work has received praise in national publications and that he has received awards from the American Library Association and Parent's Choice. *CoEvolution Quarterly* once said Polisar's songs were "well worth selling all your child-psychology texts for."

"It's not like I need the work," Polisar said. "I'm kept pretty busy with two to three hundred concerts" a year around the country. "I'm more concerned that a whole population in a neighborhood that's very close will now be denied access to my materials." He had performed two or three times a year in Anne Arundel schools, he said, since the start of his career. Though some bookstores, toy stores, and children's catalogues will not sell his material, Polisar said he knew of no other school system that had acted so "overtly" to protect its students from his work.

Horner said that "the door is still open" to Polisar to resub-

mit his material for use in county schools and that a grievance procedure existed for an appeal of the decision. Polisar said he probably would not appeal, however. "My sense is that it is final," he concluded. Reported in: *Washington Post*, September 5; *Maryland Sun*, September 6; *Annapolis Capital*, September 6; *Baltimore Sun*, September 6, 8.

Bluffton, Ohio

Four parents showed up at the monthly Bluffton School Board meeting September 10 to protest the use of the book *Fallen Angels*, by Walter Dean Myers, in a sophomore English class because of its use of profane language. Parent Dave Steiner started the discussion by pointing out to the board that the book violated school rules prohibiting the use of obscene language by students.

The book, which is a first-person account of the Vietnam War by a black soldier, won the Coretta Scott King Award in 1989 and is recommended by the Ohio Council of English Teachers.

Phil Luginbuhl told the board that the book was setting a bad example for students. Although he acknowledged that "a lot of students are used to that kind of language at their own home," board member Gary Crawfis agreed that the book might be inappropriate. "I could see using this book in big cities, but not in Bluffton."

The board took no official action on the complaint, however. Reported in: *Bluffton News*, September 13.

Bremerton, Washington

A black woman's autobiography that includes an account of her sexual molestation as a child was rejected August 8 as required reading for an English class for gifted ninth graders. On a 4-1 vote, the Central Kitsap School Board rejected Maya Angelou's *I Know Why the Caged Bird Sings* for the Venture English class at Ridgetop Junior High School.

"I just don't feel this book is appropriate for kids at the ninth grade level," said board President Larry Littlefield. His constituents expect him to uphold "high moral standards" that are not met by the book, he said.

Teacher Jan Chappuis, who last year used *I Know Why the Caged Bird Sings* in a single small class, said the passages about molestation are a minor part of the book. The main focus is "the oppression that Maya Angelou struggled against to become a fulfilled woman," she said. The teacher added that she chose the book "because the author possesses and conveys a love of learning and language."

One parent of a child in last year's class objected to the book's "graphic" description of the molestation. The parent also claimed that it raised sexual issues without giving them "moral resolution." Reported in: *Bremerton Sun*, August 9.

student press

Denver, Colorado

When classes began September 10 at the University of Denver, the school's student newspaper, the *Clarion*, was unavailable. Published on the private university's campus almost continuously since 1900, the *Clarion* was shut down by a student media board in early July after several sexist and off-color jokes were printed on the back page of the May 31 issue. The paper probably won't hit the newsstands again until January, 1991 — one of the longest and most unusual shutdowns of a student newspaper in recent years.

Clarion staff members, who did not protest the suspension, defended the off-color humor as satire. The five member board, however, viewed the jokes from a different perspective, sacking the paper's 13-member senior staff and naming a committee of students, faculty and administrators to review the publication's future.

"The students, really, are the ones who ought to decide what they want," said chancellor Dan Ritchie. "It was they — not the administration [who] decided [on the suspension]. I think you'll see come out of this debate a much better *Clarion*."

Aside from questions of discretion, taste and editorial content, members of the media board and administrators were concerned about *Clarion* budget deficits that reportedly amounted to nearly \$100,000 over the past two years.

"Mainly, the financial problem was the basis for the decision to stop publishing," said Mike Moberg, media board chair. "The remarks that appeared on May 31 — that, possibly, was the final straw. This has nothing to do with censorship."

Students and faculty also charged that the paper was losing touch with campus issues while highlighting offbeat stories and strident, offensive humor. "They had stopped covering student government," said one faculty member. "You couldn't depend on it for student news. They had developed this concept of the paper to be an alternative-type newspaper. It was no longer covering the campus community."

Clarion staff members described the suspension as over-reaction and censorship by the media board. "The net effect is censorship," said Richardo Chavira, the ousted editor and a senior philosophy major. Reported in: *Rocky Mountain News*, September 9.

Pittsburg, Kansas

Pittsburg Middle School student Jason Bailey says he is considering legal action after the school principal removed him as co-editor of the student newspaper in April. Principal Robert Heck objected to an editorial written by Bailey in the first issue of the *Scholastic Tribune*, a paper published as

part of an after-school club and distributed throughout the school. In the lead editorial, Bailey criticized the previous school paper, for which he also had worked.

Heck said Bailey's editorial was "extremely critical" and "very derogatory." "I didn't want him writing any more. He didn't have the support of other students at the school," Heck said. "When students don't function well in a club, we remove them from the club."

Bailey charged that the principal did not follow school district policy with the editorial. According to district policy on school-sponsored student publications, "all material published in school-sponsored publications must have the prior approval of the faculty sponsor and building principal." Bailey said he was punished for a piece that had been approved by his adviser two weeks before it appeared.

After a story about Bailey appeared in the *Pittsburg Morning Sun*, Heck offered to reinstate him if other members of the *Scholastic Tribune* staff voted him into the office. Bailey refused. "If Mr. Heck lost his position as principal for no apparent reason, but was then told shortly after the incident he could regain his position if the teachers voted in favor of him, that would be quite unfair because he had strived to achieve that position just as I strived to be the co-editor of the *Scholastic Tribune*."

On April 23, two weeks after the paper was published, Pittsburg's Board of Education voted 6-0 to "support actions taken by administrators and not take any further action in connection with this incident. Heck said he probably would not allow any more student publications at the school for a few years. "We probably won't have one for a while," he said. "It has turned out to be a negative-type thing." Bailey said that he was considering legal action. Reported in: *SPLC Report*, Fall 1990.

Bowie, Maryland

A 22-year teaching veteran found his career on the line following publication of three questionable captions in the 1990 Bowie High School yearbook. In late May, yearbook adviser Donald Watson was suspended without pay after school officials found the word "nigger" spelled in reverse and the word "fuck" among the senior captions in the yearbook. After Watson was suspended, school administrators discovered a third caption in which a male student used the word "c-nts" to describe his female peers.

Bowie Principal John Hagen described the yearbook incident as an "unfortunate setback" in a year in which the school had been trying to quell racial tensions that came to a head in February, 1989, when black students walked out to protest racial problems at the school. Prince George's County Schools Superintendent, who suspended Watson, said that ultimate responsibility for the yearbook lay with the adviser.

Watson was once Bowie's teacher of the year. In 1989, the yearbook he advised won a second-place award in Columbia Scholastic Press Association's national yearbook com-

petition. Ironically, Watson said he had tried for two years to get rid of the yearbook captions, which are submitted by the seniors, but the principal would not let him.

"It's impossible for an adviser with a full teaching load to read all the captions as carefully as the job demands," Watson said. "There were never any standards or direction, never anything but 'meet the deadlines.'"

Watson received strong support in the community. Seniors wore black armbands to school to protest his firing, more than 300 supporters carrying black balloons with the slogan "reinstate nostaW" (Watson spelled backwards) attended a June school board meeting, and 74 teachers signed a petition protesting his dismissal.

In preparing his defense, to be presented at hearings before the school board, Watson and his attorney compiled a report on similar language in local yearbooks. They discovered that the 1990 Bowie captions were far from an isolated phenomenon.

"We found 10 or 11 books with racial slurs," Watson said. "Sixteen out of the 19 books which came out in the county this year contained filthy, vulgar language." Reported in: *SPLC Report*, Fall 1990.

Passaic, New Jersey

One day in May, Sabrina Tavi walked into the newsroom at the *Valley Echo* and was told the bad news: The superintendent objected to a story that was to run in the Passaic Valley High School newspaper. At first, Tavi, editor-in-chief, thought the problem was the story on date rape. Then she guessed the bulimia story. As it turned out, the superintendent objected to some of the language in a review of "The Simpsons."

Armed with the U.S. Supreme Court's 1988 *Hazelwood* decision, some school administrators have been flexing their prior-review muscles with school newspapers (see page 207). But a bill pending in the New Jersey State Assembly could restore freedom of the press to state high school publications. The bill would require that for material to be censored, it would have to be obscene, substantially upset the school day, or violate other students' rights.

"For the principal to look at the school newspaper when there is a faculty adviser, I equate that with a principal going onto a football field and telling the coach, 'These are the plays you're going to call,'" said the bill's sponsor, Assemblyman Anthony Impreveduto (D-Secaucus).

"There are principals who, because of *Hazelwood*, are saying they now have the right to censor publications," commented John Tagliareni, president of the Garden State School Press Association and an adviser at Bergenfield High School. "To what extent, that's the difficult part to figure out. But I believe it's happening more and more."

The Impreveduto bill is supported by, among others, the New Jersey Press Women, the New Jersey Education Association, and the state Department of Education. But it

is opposed by the New Jersey School Boards Association and the New Jersey Press Association. The school boards group says that because the newspaper is a teaching tool produced by the school district, the district should have control over its content. The press association, made up of newspaper publishers, says freedom of press belongs to the "owners." It says that, in this case, the owners are taxpayers, who elect school boards that in turn hire administrators to oversee student publications. In addition, the press association says the measure contains vague terms, such as libelous and obscene, which might invite more censorship.

The effect of *Hazelwood* in New Jersey has varied. In Little Falls, Superintendent Louis Centolanza in November, 1989, instituted prior review of the *Valley Echo* after being displeased with a story about a teachers strike. He refused to let "The Simpsons" review run until several portions — including Bart Simpson's saying, "Eat my shorts" — were deleted. Students complained that Centolanza has changed several stories and caused papers to come out late because of his prior review policy.

In Ridgefield Park, the school board two years ago adopted a policy that defines what material is barred from *The Scarlet Quill*. Barred material includes grossly prejudicial or libelous information. Also, the newspaper cannot advocate use of alcohol or controlled substances, a religion, violence, or a school board candidate. Although the newspaper has run stories about abortion, date rape, and teen sex, and no story has ever been killed, students say they feel pressure not to criticize the administration.

"Whether it's an editorial or a cartoon, it's always in the back of your head, if you get into an issue that's touchy, you might offend someone in the administration," said Carolyn Cerf, the paper's editor-in-chief.

Hazelwood has had little effect on *Bear Facts*, the award-winning newspaper at Bergenfield High School. Once in a while, an administrator will "suggest" that the newspaper kill a story. It happened, for instance, with a story about school locker inspections, but the story ran anyway.

Brian Hanson-Harding, faculty adviser for *The Lance* at Northern Valley Regional High School in Old Tappan, said the school's administration had not tried to censor the paper. Still, he said "The *Hazelwood* decision really frightens me. No one wants to be dependent on the good will of a leader or a ruler, and I don't think a school newspaper should be either." Reported in: *Hackensack Record*, August 14.

Madison, Wisconsin

The student newspaper at Madison Memorial High School was not distributed as expected May 4. Instead, Principal Carolyn Taylor decided to withhold the *Sword and Shield*, which had front page coverage of a lunchtime racial fight.

According to Mark Weiss, assistant principal, a small fight turned into a racially motivated brawl in the school's cafeteria. *Sword and Shield* adviser Art Camosy had four students cover the altercation, which also gained attention

in the local media. The articles attempted to present how different racial groups on campus reacted to the fight.

The newspapers were delivered to the school the night before their scheduled distribution. Principal Taylor then made the decision to hold the paper that evening. "Principal Taylor wanted to hold a unification rally to bring everyone together and talk about the fight," said Weiss. "She simply wanted to do all the positive stuff before students read the articles."

Camosy disagreed with Taylor's decision and called local news media to inform them. "The brawl was big news to begin with in the media, but this made it worse. One of the papers ran a very critical editorial about her actions," Camosy said.

The assembly took place the next day and Taylor released the papers after its conclusion. Camosy added that Taylor's action had been "totally unexpected. She has always been an advocate of student press rights." Still, the adviser said, "I think it is going to make us a little wary when it comes to writing anything." Reported in: *SPLC Report*, Fall 1990.

art and photography

Washington, D.C.

A decision by the University of the District of Columbia to accept a controversial work of art by the feminist artist Judy Chicago sparked anger among some faculty members and administrators, who questioned the propriety of the work and the cost of installing and maintaining it. The decision provoked anger as well in Congress. The university plans to renovate its Carnegie Library to house the work, "The Dinner Party," a large display that presents the symbolic history of women through a series of 39 place settings. The work — valued at more than \$2 million — was donated to the university by the artist.

The renovations are expected to cost more than \$1.6 million, and the District of Columbia Council has authorized a bond issue to cover most of the costs. The university also has allocated \$80,000 to pay for moving the work from storage in California, and cleaning and installing it. In late July, however, the House of Representatives voted 297-123 to delete \$1.6 million from the university's budget in protest against the acquisition. [In October, after continuing controversy, including a building seizure by protesting students, Chicago withdrew her donation. Further details will appear in the January, 1991, *Newsletter*.]

The sexual imagery of "The Dinner Party" has created a stir since the day it was first shown in 1979. It consists of a three-sided banquet table with 39 place settings honoring various women, including the writer Virginia Woolf and the painter Georgia O'Keefe. Each of the place settings includes a highly stylized image that suggests the female sexual organs.

In a letter to the chair of the university's Board of Trustees, several deans criticized acquisition of the piece. "The art is of questionable propriety and may be offensive to the moral

values of many of our constituents," they wrote. "It also appears to be a most inappropriate use of university resources at this time."

In addition, a group of faculty members and students signed a petition saying they object on "moral, ethical, aesthetic, and constitutional grounds" to the public display of "The Dinner Party." The *Washington Post* and the *Washington Times* also were critical of the acquisition.

Nira Hardon Long, chair of the board, said the work was "the cornerstone of a renewed effort by the university to fulfill its mission as a multiracial, multicultural institution." She said "The Dinner Party" was the largest gift ever received by the university, and argued that its acceptance would have positive benefits for the art department and would help the institution become a "national repository for multicultural art."

Artist Chicago said she was "shocked" by the controversy over her gift. "The Dinner Party" has traveled around the world for the last decade, she said, and the idea that it is still controversial was "flabbergasting."

"I really don't understand what's going on in Washington at all," she said. "There have been in our world people who don't have an appreciation for the importance of art, and they create these false standards like, 'How can we spend money on art when we don't have enough houses for people?' Well, the reason we don't have money for art or the homeless is we make too many bombs." Reported in: *Chronicle of Higher Education*, August 1; *New York Times*, July 21.

Boston, Massachusetts

An exhibit in a gallery on the Boston University campus, featuring sexually explicit photographs, came under fire in July from conservative groups who said the pictures were obscene. "There are photos in the exhibit that violate obscenity laws in Massachusetts," said Nancy Sutton of Citizens for Family First in Needham. "Any normal, sane person who has ever read the obscenity laws in Massachusetts can see that."

The exhibit at the Photographic Resource Center was called "The Emperor's New Clothes: Censorship, Sexuality and the Body Politic." Prepared by Richard Bolton, who teaches visual arts at the Massachusetts Institute of Technology, the show displayed photos of human sexuality as depicted in art, fashion, and photography. Organizers said the exhibit's goal was to launch debate on the definitions of obscenity and art.

"We're not trying to challenge obscenity laws," said Center Director Stan Trecker. "There's a national debate raging around obscenity, censorship and funding for the arts. This is a chance for people to give their views." The gallery is leased from Boston University but is an independent organization with its own board of directors.

The center mailed out photos that were to be displayed, asking respondents for their views on the pictures. Of 160

requests, 60 people, including state Rep. Byron Rushing (D-South End), returned comments. Their views appear on the walls beneath the photos.

Sutton also is a member of First Amendment Common Sense, which pressured local officials to declare pictures obscene at both the resource center show and the Robert Mapplethorpe exhibit at the Institute for Contemporary Art (see page 199). Sutton, who was asked by the center to mail back her views, said she refused when she saw the photos. She said her group did not want the entire exhibit closed, but was asking for the removal of objectionable photos.

"Individually, the photos might offend, but when taken as a whole the exhibit shows literary, academic value," responded Andre Epstein, a Boston attorney and president of the center's board of directors. State Attorney General James Shannon, who reviewed the Mapplethorpe photos, said he had no plans to investigate the Bolton show. "We have no plans to send investigators snooping through art galleries," said Shannon's representative. Reported in: *Boston Herald*, August 2.

Lewiston, New York

Eighteen people protesting outside the gates of Artpark, a 200 acre state park dedicated to the visual and performing arts near Buffalo, were arrested September 1 during a demonstration against the cancellation of a Bible-burning performance. The demonstrators held their hands over their mouths as they accused the Artpark managers of "censorship" because of their decision to cancel the performance.

"We're individuals concerned about the censorship we have here," said Content Knowles, a Buffalo artist. "We're concerned about our freedom of speech." About forty people equipped with signs, handouts, and dirty, tattered American flags painted with slogans, gathered at the park entrance, where they had set up a platform in the shape of a Bible. Police officers told the protesters they were free to go into the park, but could not use the platform or bullhorns because they lacked a permit.

"We can't hand out leaflets. We can't hold a bullhorn. We can't make a speech," complained Kathleen Steffan, a Buffalo artist and one of the organizers of the protest. Capt. Joseph DeMarco of the New York State Niagara Park Police said the demonstrators were arrested because they had failed to obtain a permit.

"When you do something that causes a crowd to gather, that's disorderly conduct," DeMarco said. "They're serving no useful purpose. It's just getting worse and worse."

Mark Pauline of the San Francisco-based performance art group Survival Research Laboratories had planned to cover a large mechanized Mother Earth figure with thousands of Bibles during a performance. The Bibles were to be peeled off by incineration. Pauline said the performance was to express liberation from religious restraints on human freedom.

David Midland, Artpark's executive director, said Survival Research Laboratories told him the performance would include "machine violence" but no Bible burning. Artpark officials accused Pauline of breach of contract.

"I am amazed at the amount of arrests and the overreaction of Artpark officials," said Tony Conrad, a media professor at the University of Buffalo who was among those arrested. "With respect to the administration of Artpark, David Midland is playing roulette — and he has put his money on black instead of red. It is very important for artists in Buffalo to do what artists do — use their voices expressively as good artists everywhere do. It is very clear that censorship is a major issue almost every day."

"None of the money [for the Pauline presentation] came from the National Endowment for the Arts — no fellowship grant or arts-funded monies was used," emphasized Brian J. Springer, one of the demonstrators.

"I am absolutely against censorship," countered Midland. "I don't think the Survival Research Laboratory [cancellation] has anything to do with censorship. It has to do with a breach of contract." Reported in: *Buffalo News*, September 2, 3; *Niagara Gazette*, September 2.

Asheville, North Carolina

An art exhibit installed August 8 in the Walker Art Gallery at Asheville School was removed three days later on the orders of the headmaster because it was deemed inappropriate. "Female genitalia have no place on the walls of a school building," Headmaster John Tyrer said as artist Connie Bostic disassembled sculptures and removed paintings. "I cannot judge it as art, but I can judge it as a graphic display that is not appropriate for our students to see on the first day of school without some sort of explanation."

The exhibit, entitled "Archetypical Feminine Symbols," was composed of paintings and sculptures created to "depict woman's regenerative and creative nature," Bostic said. None of the art contained any obvious nudity, and works containing portraits of female nudes were not included in the exhibit because "I was afraid they would cause a problem," Bostic added. Reported in: *Asheville Citizen-Times*, August 12.

Portland, Oregon

Censorship or selection, art or pornography? Artquake, downtown Portland's annual street arts festival, had a brush with these contentious issues Labor Day weekend when it rejected the sculptures of a Eugene, Oregon, artist whose work portrays male nudity. Artquake officials said they refused to let Mike Randles show his work because it was substantially different from the slides of his sculptures he had earlier submitted for approval. Randles conceded that the works he brought to Artquake were not identical to those on the slides, but said the slides showed less mature work.

"They out and out told me it wasn't the quality of the work; it was the character," the artist said. "We have a situation of censorship."

Randles said his slides depicted a male sex organ transformed into a rifle. He described the work he actually brought to Artquake as "life-size, nude male torsos skewered on grand swizzle sticks."

"They're less humorous, but they're less offensive in their portrayal of the male psyche," he said.

Randles' mixed-media carvings were rejected from the Artist's Marketplace by Artquake's executive board of directors September 1 as the festival was about to begin. "It's a blatant case of misrepresentation," said Catherine Wygant, Artquake board member. "This isn't about quality or about subject matter. There was a drastic difference between the slides and the work he brought. We have to follow our own rules."

Wygant added that an Artquake volunteer complained about the work. "She had her 4-year-old with her and she wasn't happy," Wygant said.

"We welcome controversial art," added Artist Marketplace chair Laura Hill. "We asked him to come back with the work he submitted. We're really sad that he didn't. The spirit of the work he brought was substantially different than what he had submitted for jurying."

But other exhibitors were skeptical of the organizers' explanations, even though, according to Hill, two other artists were also asked to remove work that differed from what they had submitted. "It didn't have anything to do with their rules," said one artist in a booth near Randles. "Artists bring different work all the time. His stuff was causing a stir, and the board just didn't want to deal with it." Reported in: *Portland Oregonian*, September 3.

cover art

Phoenix, Arizona

The Bashas' grocery store chain pulled the videocassette of Walt Disney's *The Little Mermaid* from its 54 stores July 25 because Michelle Couch, a homemaker from Mesa, Arizona, complained that the videotape's cover art contained a cartoon rendition of a penis. But store officials decided the next day to return the movie after they examined the cover and decided the alleged organ looked more like a minaret on a fairy-tale castle.

"We tried to give her as much credence as we could, and pulled the film because we wanted to look at it, but in our opinion it's as innocent as can be," said Rob Johnson of the chain's customer relations department.

But Couch insisted she saw what she saw. "I don't see how it couldn't be," she said. "I think you know what you're drawing when you're drawing. I think it's very offensive, and I don't think this is something that should be in a child's

video. I'm not advocating censorship. If it were geared for adults, that would be fine, but this was geared for children."

Couch said it all began when her husband was listening to a local radio station. A woman on a call-in show said an unnamed Disney movie had sparked controversy in California because of its cover. She then checked the cover of *The Little Mermaid* that she bought at Bashas' and, lo and behold. . .

Disney executives said they were upset by the allegation. "It's a perception problem that is very overinflated by a small number of consumers and the media," said Disney vice-president Tania Steele. "It's an unfortunate misperception that is, in a way, rather silly." Steele said the commotion started after two Los Angeles radio DJs "who thought they were being funny" made jokes about the tower resembling a phallus. Steele said Disney had no plans to change the cover.

At Bashas', Rob Johnson was still shaking his head in disbelief. "I could see what this lady thinks she sees, but it's a bit of a stretch," he said. "I don't think it's anything that anyone could see unless someone pointed it out. If she's seeing phallic symbols there I pity her when she's driving down the road and sees telephone poles, or takes her cart through the produce department." Reported in: *Arizona Republic*, July 28; *Phoenix Gazette*, July 27.

Royal Oak, Michigan

A Royal Oak record store owner was believed to be the first person in Michigan charged with violating a local obscenity ordinance for displaying a promotional poster of an album cover featuring male and female frontal nudity. Richard Berry, an owner of Off the Record, was issued the citation August 21 by Royal Oak police, who then confiscated the poster, shortly after the store opened. It had been in the store's window a week.

The poster, a replica of the album cover for the latest release by the alternative rock band Jane's Addiction, shows two women and a man with papier-mache bodies. A naked woman stands in the center, flanked by a woman clad in a black lace bra and a man with his genitalia partially exposed. The two are clutching the woman in the center, and a red cloth covers the trio's legs.

Berry was charged with violating the city's obscenity ordinance, which prohibits anyone from displaying or selling material "beyond the customary limits of candor," police said.

"Royal Oak is a conservative, bedroom community. We're family oriented," said Sgt. Jerry Gainy. "We don't allow obscene pictures in our store windows where children walk by and look at it."

"This is ridiculous," countered Berry. "They're taking it a step too far. It disturbs me when they keep trying to tell you what you can and can't display."

The album cover was designed by the group's lead singer,

Perry Farrell. Because Warner Bros. anticipated that the cover might spark controversy, the group also issued an alternative jacket, which features a plain white background inscribed with the First Amendment.

Police said they decided to press charges after an anonymous caller complained about the poster. Off the Record had received a warning in 1989 for displaying a photograph of a naked woman. The store then partially covered the photograph with Band-Aids. Police said they do not intend to stop the store from selling the album, which carries a warning label for explicit lyrics. Reported in: *Detroit News*, August 22; *Detroit Free Press*, August 22.

publishing

Odessa, Texas

A Pulitzer Prize-winning journalist canceled a September book promotion visit to Odessa, which is featured in his book on high school football in the state, after reports of telephone threats against him. The book by H.G. Bissinger, *Friday Night Lights*, takes a critical look at Odessa's preoccupation with football. It focuses particularly on Permian High School, which budgets \$5,400 a year for teaching materials for the English Department and \$6,400 for rush-order film prints of its football games.

"People here took the book as an attack on their values," said Eric Smalley, manager of the city's B. Dalton bookstore. "I believe the author is wise to stay away, at least for the time being. Both B. Dalton and the local Waldenbooks received several threats to Bissinger."

In his book, Bissinger charged that drugs like novocaine were illegally used as pain-killers by the Permian team. The book also exposed an alleged pattern of racism.

"I was scared, nervous, and I did not want to take the risk," said Bissinger of the threats and cancellation of his promotional visit. George Gibson, director of marketing at Addison-Wesley, said he, the author, and the author's agent, Michael Carlisle, had decided that it was too dangerous for Bissinger to visit Odessa. Reported in: *New York Times*, September 25.

theater

New York, New York

The Roman Catholic Archdiocese of New York in September demanded that an Off Off Broadway theater company terminate performances of a play being presented in a former parochial school the company leases from the archdiocese. The archdiocese says the play has language that is against the church's principles and is being performed in violation of terms in the lease between the church and the theater.

The RAPP Theater Company, part of the RAPP Arts Center, said the archdiocese's action amounts to censorship and vowed to fight the church's action, even though the group agreed in its lease not to present such work.

"We will not buckle under the pressure," said R. Jeffrey Cohen, the founder and artistic director of both the company and the center, who added that the company had been threatened with eviction if it continued to perform the play. "My attorneys are looking into it and they are convinced that the church's position is unconstitutional as well as being unconscionable."

The play, "The Cardinal Detoxes," by Thomas M. Disch, is a 35-minute monologue about an archbishop who has been placed in a church-run detoxification center because he has killed a pregnant woman in an automobile accident while driving under the influence of alcohol. In the play, he delivers a diatribe against church policies on abortion, women's rights, homosexuality and other issues.

The play was first presented in the spring, with no complaints from the church. But after performances were resumed in August, the center received a letter September 17 from church lawyers demanding that the theater company "immediately terminate the performance" of the play because it violated the center's lease. Reported in: *New York Times*, September 20.

recordings

Lexington, Nebraska

Several midwest radio stations yanked records by country music artist k.d. lang from the airwaves in early July to protest the performer's planned appearance in a commercial for an animal rights organization. On June 27, KRVN radio of Lexington became the first radio station to announce it was banning lang. Stations in Nebraska, Kansas, Minnesota, South Dakota and Iowa quickly followed KRVN's lead.

KRVN Program Director Charlie Brogan said the decision to ban lang's music was based on her support of the group People for the Ethical Treatment of Animals (PETA), which is incompatible with the station's service to local agriculture. A Grammy winner in the Country field, lang has appeared in a national vegetarian television promotion called "Meat Stinks." The promotion was sponsored by PETA, the largest animal rights organization in the nation.

In the ad lang appears with a tan cow and asks: "We all love animals, but why do we call some 'pets' and some 'dinner?' If you knew how meat was made, you'd probably lose your lunch. I know — I'm from cattle country and that's why I became a vegetarian. Meat stinks, not just for animals but for human health and the environment."

"She is using her success brought to her by her music," said Brogan. "By playing her music, we feel we would only be contributing to her cause. We're tied to agriculture and believe our listeners . . . will feel proud that we took this stand. . . . I don't mean to tell her she doesn't have the right to voice her opinion. She has the right to say anything she wants to. But we're not obligated to air her political beliefs." Reported in: *Kearney Hub*, June 27, 28; *North Platte Telegraph*, July 4.

billboard

West Hollywood, California

The controversy over artistic freedom and Senator Jesse Helms expanded to billboards in August. A huge billboard rented by an artist to heap ridicule on the North Carolina Republican was taken down August 16 by its owner, a subsidiary of Minnesota Mining and Manufacturing in St. Paul. The artist cried "censorship."

Self-described "guerrilla artist" Robbie Conal said the action was another example of the fear that Helms' attacks on some federally subsidized artworks had produced. The company said it was merely a matter of questionable taste.

The billboard went up August 8, high above Santa Monica Boulevard. Designed by Conal, the board superimposed a twisted portrait of Helms on an artist's palette, with the thumb hole in the forehead. "Artificial Art Official" was the accompanying inscription. Conal, who had rented the board for three months with his own money, said at the time that it "captured the scary, totalitarian image I was aiming for."

Officials at the National Advertising Company in Chicago, the 3M subsidiary, saw it differently. The company has a policy that any advertising material that touches on such issues as abortion, birth control, sexual matters or "anything" that "could cause controversy" must have the approval of the company's national marketing director, Jim Shaheen. A company representative said the local manager rejected the original caption — "Holy Homophobe." Shaheen did not see either version, the representatives said, but when he did, he ordered the billboard taken down.

"This is an example of exactly the problem I was trying to critique on my board — the element of fear that has crept in," Conal said. "Even giant corporations would practice censorship. I am sure they will correct it when they read the First Amendment."

Conal has previously run into difficulty with authorities. In 1988, the Los Angeles Department of Public Works took action against him for plastering traffic-light switch boxes with satirical portraits of political leaders. "I'm an artist doing art in the public arena," Conal said. "I was trying to go straight. This [billboard] was very unusual for me." Reported in: *New York Times*, August 17.

purgative fires

Denver, Colorado

A small collection of rock album jackets, several tapes, a "demonic" ring, a rock 'n' roll magazine and a copy of Stephen King's *Salem's Lot* went up in flames at Denver's Calvary Temple August 19. A few feet away, concert promoter Barry Fey conducted a lone protest, debating some of the members of the audience who attended the "Truth About Rock" slide show, speech and ritual burning by Minneapolis-based minister Steve Peters.

Peters, who was accompanied by his wife Julie, has drawn national attention to his ministry since 1979 when he and his brother Dan began burning records and preaching about the un-Christian nature and lifestyles of rock 'n' roll performers and music.

In the church parking lot — as albums by Lynyrd Skynyrd, the Pretenders, Madonna, the Village People, Kiss, Uriah Heep, the Who, the Police, Led Zeppelin, and other bands were consumed in the "religious fire" — Peters played to the television cameras. Most of the albums came from the collection of 21-year-old Michelle Plunkett of Denver. She called them "evil" and said she would "rather have them burned than have someone else listen to them." Reported in: *Rocky Mountain News*, August 20.

Hendersonville, North Carolina

Some 100 to 150 people turned out July 28 for a ritual burning of record album covers which culminated a week-long anti-rock crusade by former drummer and radio disc jockey turned minister Billy Mayo at the Balfour Baptist church. On the stack to be burned were the Eagles, Jackson Browne, the Cars, Van Halen, Alabama, the Bee Gees, and New Kids on the Block, among others.

"I gave up the Eagles. That was hard. But, you know, their song "Hotel California?" Well, the Hotel California is owned by a Satanic organization," said Jerry Warren. Warren also said he may have to give up James Taylor because "he's too secular."

The crowd was mostly under 20 years old, though people of all ages were represented. One teenager said he thought the record burning was "fun, and that he liked worshipping." A younger girl said she thought it was "good for her to turn away from this stuff." She added that it's not the beat that's bad, she liked that, but she thought the lyrics were corrupting. She planned to turn to "Christian rock and the oldies — like from the '50s." Reported in: *Hendersonville Times-News*, July 29.

foreign

London, England

On August 17, an appeals board overturned a ban on a film depicting author Salman Rushdie as a drunken sadist

who murders Moslems. Rushdie himself had urged the Video Appeals Committee to lift the ban on *International Guerrillas*. The ban was imposed in July on grounds that the work could be criminally libelous.

In a passionate written statement, Rushdie said he did not seek the dubious protection of censorship. "The banning of *International Guerrillas*, however well intentioned, can only damage the process of reconciliation, and I urge the committee to reverse the existing ban," Rushdie wrote.

The film, made in Pakistan, was refused distribution rights by the British Board of Film Classification. Rushdie has been in hiding since the late Ayatollah Ruhollah Khomeini pronounced a death sentence on him nearly two years ago for writing the novel *The Satanic Verses*, which many Moslems consider blasphemous. The film, described as a "James Bond-style epic," features a plot in which an international syndicate decides to destroy Islam by commissioning *The Satanic Verses* from Rushdie. The author is seen drunkenly insulting the Prophet and killing Moslems. The film ends with the Rushdie character being struck dead by lightning under a floating Koran. The film played to packed houses in Pakistan.

Rushdie said he had confidence in the Moslem and non-Moslem audience to "recognize this film for the distorted, incompetent piece of trash that it is, and to understand that the 'Salman Rushdie' character is ludicrously unlike the real me." The author said he opposed the use of archaic criminal laws of blasphemy, sedition and criminal libel against creative works as an excuse for censorship or prior restraint. "Censorship is usually counter-productive and can actually exacerbate the risks which it seeks to reduce," Rushdie wrote. Reported in: *Publisher's Weekly*, August 3; *Washington Post*, August 18.

Helsinki, Finland

A consumer affairs court in Helsinki banned a television commercial sponsored by McDonald's. It charged the fast-food chain with using the advertisement to exploit the loneliness of a child. The commercial showed a young boy, obviously depressed, as he walks around an empty apartment that his parents plan to rent. The boy looks out a window, however, and sees a McDonald's. His depression vanishes. The ad ends with the boy eating in the restaurant.

The Finnish court ruled that the advertisement could not be telecast because it might convey the wrong impression — that eating in McDonald's or buying its products can banish loneliness or serve as a substitute for friends. In its defense, the company said all it meant to show was that eating at McDonald's made for a happy family outing. The court disagreed, threatening to fine the company \$50,000 if it again employed a child's loneliness to promote its business. Reported in: *Parade*, July 1. □

from the bench



prior restraint

New York, New York

The Appellate Division of the New York State Supreme Court on September 13 overturned an unprecedented injunction issued at 1 a.m. the previous day by a Supreme Court justice, banning the U.S. publication of a book by a former member of Mossad, the Israeli intelligence service. The four justices of the division ruled unanimously that a suit filed by the Israeli government alleging that the book endangered lives was groundless, and that there was no justification for the temporary restraining order imposed by Justice Michael J. Dontzin.

The ruling said that Israel's "claim that the safety of Israeli intelligence agents is endangered by defendants' further acts of publication and dissemination of the book has not been sufficiently supported." The book portrays Mossad as being "dangerously out of control" and often working against U.S. foreign policy.

Justice Dontzin's ban on the book had brought widespread condemnation because prior restraint on publication is extremely rare in the U.S. In their ruling, the four justices said Israel had "failed to overcome the heavy presumption against a prior restraint on publication."

St. Martin's Press had already shipped 17,000 copies of *By Way of Deception: The Making and Unmaking of a Mossad Officer* when Justice Dontzin's ban was imposed. "In view of the distribution of the book to approximately 1,500 wholesalers and to book reviewers of major media outlets, any grant of injunctive relief in this case would be ineffective," the justices noted.

The book was written by Victor Ostrovsky with a Canadian journalist, Claire Hoy. Ostrovsky, who was born in Canada and has dual Canadian and Israeli citizenship, said

he worked for Mossad from 1984 to 1986. In a September 7 ruling, an Ontario court blocked publication in Canada pending a hearing. The Canadian ban was not affected by the U.S. decision.

The Israeli suit sought to draw parallels between the case of Ostrovsky and that of two former U.S. Central Intelligence Agency agents, Victor L. Marchetti and Frank W. Snepp, who also wrote books. After lawsuits brought by the Justice Department, both Marchetti and Snepp were ordered by courts to submit any future writings about the CIA to the agency for prepublication censorship.

Judge Dontzin's temporary injunction marked the first time that a foreign government has blocked, however briefly, distribution of published material in the United States. "I don't think the government of Israel really believes anyone will be endangered by this," commented Roy Gainsburg, president of St. Martin's. "I think the government of Israel thinks they're going to be embarrassed by this. To ban a book because it's embarrassing is just something that is not done in this country. That's what the First Amendment is all about." Reported in: *New York Times*, September 10, 13, 14; *Washington Post*, September 14.

recording

Reno, Nevada

Two young men did not kill themselves because they heard alleged subliminal messages in the heavy metal music of Judas Priest, a judge in Reno ruled August 24. In a 93-page decision, Washoe District Judge Jerry Whitehead said that he could hear the subliminal commands, but that the words "Do it" were a combination of the singer's exhalation of breath on one track and a guitar on another track. He also ruled that the families of the two young men failed to prove that such messages were a precipitating factor in the shootings.

Lawyers representing the families of Raymond Belknap and James Vance claimed that a subliminal command saying "Do it" and backward messages promoting self-destruction concealed in Judas Priest's 1978 album *Stained Class* caused the boys to enter into a suicide pact in 1985.

Whitehead wrote that the "plaintiffs lost this case because they failed to prove that the defendants intentionally placed subliminal messages on the album and that those messages were a cause of the suicide and attempted suicide involved in this case. However, it is unknown what future information, research and technology will bring to this field."

Whitehead said that although the court respected the First Amendment right of artists to express themselves, he declined to dismiss the case because he believed that subliminal messages do not share such privileges. The judge suggested that subliminal communication is not protected because it

does not advance any of the purposes of free speech and because it is a violation of privacy deviously employed to manipulate the subconscious.

While the judge ruled in favor of the band and CBS Records, he imposed a \$40,000 "sanction" against the record company, saying that it had refused to comply with court orders directing it to supply certain material needed to decide the case.

The ruling left the door open on a broad new category of product liability lawsuits, according to an attorney for the families. "I believe this is an excellent decision because it should promote people to pursue more of these cases in the future," said Kenneth McKenna, who already has several similar cases ready in other states. "Sooner or later, science is going to catch up with reality and we'll be able to prove these cases in a courtroom.

Mike Greene, president of the National Academy of Recording Arts and Sciences, suggested that the decision might put a damper on company decisions regarding what is considered appropriately protected artistic expression.

"People won't admit it," Greene said, "but taken into consideration with the controversy surrounding 2 Live Crew (see page 203), I think the Judas Priest decision is going to cause artists to think twice about promoting lyrical messages that call for action, whether those messages speak to suicide or violence."

But Gail Edwin, counsel for CBS Records, disagreed. "The suit was certainly unfortunate, but it will not have a chilling effect on the conduct of business by CBS Records," Edwin said. "Still, in my opinion, the plaintiffs attempted to make heavy metal music a social issue in this case. They pursued it with an evangelical fervor in which they pitted the music against what they proclaimed as Christian values."

Danny Goldberg, chair of the ACLU Foundation of Southern California, said he viewed the lawsuit as but another example of a national crusade bent on destroying free speech in entertainment. "This has been the most absurd courtroom episode since the Salem witch trials," Goldberg said. "It's not just some weird isolated incident. It is part of an escalating climate of repression." Reported in: *Washington Post*, August 25.

dial-a-porn

New York, New York

On August 13, a federal judge barred enforcement of the Helms Amendment, passed hastily by Congress last year in an attempt to prevent minors from listening to sexually explicit telephone recordings. Saying the law "presents a threat of imminent irreparable harm to First Amendment freedoms," U.S. District Court Judge Robert P. Patterson, Jr., ruled two days before the sweeping law was scheduled to take effect.

The law, aimed almost exclusively at the lucrative and fast-growing "dial-a-porn" industry, would prohibit obscene telephone messages, ban any arrangement that makes indecent — but not obscene — messages available to persons under 18, and require adults who want to hear them to subscribe to the services in writing.

Although Patterson's ruling affected only New York state, Federal Communications Commission (FCC) officials said it could be adopted nationally.

"The judge did a courageous and important thing today," said Joel Dichter, who represented five New York companies. "The law would have required customers to make a written request to obtain their First Amendment rights. That's ridiculous. There are far better ways to protect minors from obscenity."

The amendment sponsored by Sen. Jesse Helms (R-NC) "emerged from the Senate in the waning days of a congressional session," Patterson wrote in granting the preliminary injunction. "No committee reviewed the bill, and the Senate only had a few minutes to consider the proposed bill." In addition to the First Amendment issues, the judge wrote that the law was too broad and vague and that the government had ignored potentially useful and less restrictive means of screening calls.

"This is a significant decision," said Jane Mago, assistant general counsel at the FCC. "This is the first time there has been a real review on the issues. But it's too soon to know how widely it will be applied."

Last year the U.S. Supreme Court struck down a different law aimed at telephone sex services, saying it was too broad. The high court has issued guidelines to help local judges and legislators to determine whether something is obscene, but it has never issued such a ruling on how to define indecent expression. Reported in: *Washington Post*, August 14.

obscenity

Washington, D.C.

Citing apparent "bad faith" on the government's behalf, as well as many cases showing the apparent unconstitutionality of bringing multiple federal obscenity prosecutions against one company simultaneously, a U.S. District Court judge on July 23 granted a preliminary injunction to PHE, Inc., which does business as Adam & Eve, one of the nation's largest distributors of sexually explicit materials, and its owner Philip D. Harvey. Adam and Eve filed suit in March against the Justice Department, Attorney General Richard Thornburgh, the National Obscenity Enforcement Unit and its acting Director Patrick Trueman, U.S. Attorney for the Western District of Kentucky Joseph M. Whittle and Assistant U.S. Attorney for the state of Utah Richard N.W. Lambert. The suit sought to prevent the Justice Department from unconstitutionally coercing the company into ceasing distribution of materials protected under the First Amendment (see *Newsletter*, July 1990, p. 143).

Judge Joyce Hens Green "decided that we're likely to prevail in our case, which is why she granted the preliminary injunction," said PHE attorney David Ogden of the Washington firm of Jenner and Block. "She showed her view of the law. The government may appeal, in which case we'll be onto the appeals court. But I'm very confident. The facts in this case are so bad against the government, that they showed such bad faith, that it shouldn't matter who the judges are."

According to Ogden, the government did not dispute one fact presented to the court in demonstration of its bad faith. Indeed, Judge Green wrote, "Plaintiffs' factual showing, as contained in the numerous declarations submitted in connection with their motion, demonstrate a substantial likelihood of success on the merits of their claim that defendants' conduct constitutes bad faith calculated to suppress plaintiffs' constitutional rights. . . . When taken as a whole, these allegations suggest a concerted effort by the defendants, through harassment and threats of multiple prosecutions, to suppress plaintiffs' constitutionally protected activities."

Judge Green stated that it was obvious that the government's intention in filing simultaneous multijurisdictional prosecutions was to force the company to cease operations due to the financial strain of defending several federal cases. Reported in: *Adult Video Magazine*, September 1990.

press freedom

Minneapolis, Minnesota

The Minnesota Supreme Court ruled July 22 that a newspaper's promise to conceal the identity of a news source was not an enforceable oral contract. The 4-2 decision overturned a lower court's ruling that had upheld an award of \$700,000 to a man who was identified in Minneapolis and St. Paul newspapers after reporters for the two papers promised him he would not be named.

In 1982, Dan Cohen, working for an advertising agency employed by a political candidate, told reporters from the *Minneapolis Star Tribune* and the *St. Paul Pioneer Press* that the candidate's opponent had been convicted of shoplifting in 1970. The reporters promised that Cohen's name would not be revealed. Over the objections of the reporters, their editors published Cohen's name and identified him as the source. David Hall, who was executive editor of the *Pioneer Press* at the time, said that he believed the source of the information was more important than the information itself. Cohen was immediately dismissed from his job.

In overturning a jury award, the Minnesota high court ruled that Cohen and the reporters did not intend to create a contract when they negotiated the terms under which Cohen sought and was promised confidentiality. "Contract law seems here an ill fit for a promise of news source confiden-

tiality," the majority opinion said. "To impose a contract theory on this arrangement puts an unwarranted legal rigidity on a special ethical relationship."

Cohen had also argued that he was entitled to damages because, under Minnesota law, liability can be established on the basis of a promise where a person acts to his detriment in reliance on a promise, even if there is no contract as such. But the court ruled that, in this case, requiring enforcement of the promise of confidentiality would violate the newspapers' First Amendment rights.

In dissent, Justice Glenn Kelley said the decision would serve "to inhibit rather than to promote the objectives of the First Amendment by 'drying up' potential sources of information on public matters."

Elliot C. Rothenberg, Cohen's lawyer, said the ruling would be appealed to the U.S. Supreme Court. Reported in: *New York Times*, July 23.

libel

San Francisco, California

A federal appeals court August 30 overturned a \$5.2 million libel award to the singer Wayne Newton from the National Broadcasting Company, ruling that the network's news reports suggesting links between Newton and organized crime had not been shown to be deliberately or recklessly false.

In a unanimous decision, a three-judge panel of the U.S. Court of Appeals for the Ninth Circuit found that there was insufficient evidence to show that NBC News reporters had either deliberately lied or recklessly disregarded the truth, the legal standard that applies when libel suits are brought by public figures.

Newton filed suit against NBC after the network broadcast a report in 1980 about the singer's purchase of the Aladdin Hotel and Casino. After a 1986 trial, a jury in Las Vegas found that the reports had created a false impression that organized crime figures had assisted Newton in the purchase in exchange for a hidden share. The jury awarded \$19.3 million in damages, which was later reduced by the judge to \$5.2 million.

In the appellate ruling, written by Judge William A. Norris, the court held that almost all the facts reported by NBC were beyond dispute. The court also found that the trial judge had erred in ruling that Newton had grounds for a lawsuit because the journalists should have foreseen how the reports would be interpreted. The appellate review showed "almost no evidence of actual malice, much less clear and convincing proof." Reported in: *New York Times*, August 31; *Wall Street Journal*, August 31; *Chicago Tribune*, August 31.

church and state

Schuylerville, New York

A painting of a crucifixion scene that has hung on the wall of a school auditorium in upstate New York for 25 years must be taken down, a federal judge ruled August 29. U.S. District Court Judge Howard G. Munson ruled that the painting conveyed "a message of government endorsement of Christianity" and that it violated the constitutional separation of church and state.

The Schuylerville School District had argued that the painting did not have any particular religious significance but was a general depiction of "man's inhumanity to man."

Lawyers for the couple that brought the suit, Susan and Robert Joki, argued that the painting was clearly a depiction of Christ and that its placement in the school implied governmental approval of the Christian religion. Judge Munson agreed with their assertion, which they bolstered with depositions from two ministers, a rabbi, and an art historian.

The painting "prominently displays a figure whom the average observer would believe to be Jesus Christ at his crucifixion," Munson wrote. "The painting lacks any meaningful neutralizing or negating features." The judge issued his ruling as a summary judgment, after finding that a full trial was unnecessary.

The crucifixion scene had hung largely undisturbed and unnoticed in a dimly lit corner of the Central School auditorium in Schuylerville. But the Jokis challenged the placement of the painting. Mrs. Joki is Jewish, while Mr. Joki was raised as a Baptist and now says he is an agnostic. Reported in: *New York Times*, August 30.

college

San Diego, California

The California Supreme Court upheld a lower court's ruling that officials of the San Diego Community College District violated the free speech rights of a drama teacher and a student in 1986 by canceling a play they were preparing to stage. The play, *Split Second*, was about a black policeman who killed a white suspect, and it contained vulgar language and racial slurs. The California Court of Appeal had ruled that the cancellation violated the First Amendment, declaring that college officials "were merely concerned with avoiding the discomfort and unpleasantness" the play might have caused (see *Newsletter*, September 1990, p. 169). Reported in: *Chronicle of Higher Education*, August 8. □

(Mapplethorpe . . . from page 199)

displays. "This argument combines facts, affirmative defenses and issues of credibility," the judge said. "This court will not pretry the case on those issues." Also on

September 6, Albanese granted a prosecution request to let jurors see only the five photographs that depict sadomasochistic and homoerotic sex acts when considering the obscenity charge. Prosecutors will only have to prove that one photograph is obscene to win a conviction.

"The court believes the retrospective [the exhibit in its entirety] is a vehicle for displaying the five S&M photographs," the judge said. Defense lawyers contended that the 175 pictures in the exhibition — mainly portraits and pictures of flowers — aren't obscene when considered as a group.

In related developments, the Mapplethorpe exhibit opened August 1 at the Institute of Contemporary Art in Boston. After a lengthy and highly publicized controversy in which City Councilor Albert "Dapper" O'Neil and others tried to get the controversial photos removed from the exhibit, on September 5 Boston Municipal Court magistrate Rosemary Carr declined to allow charges to be pressed against the Institute.

"I wouldn't pay five cents to see this [exhibit]," Carr said after viewing a catalog of Mapplethorpe's work and hearing testimony from four witnesses. But she dismissed the complaint, saying the exhibit did not violate the Supreme Court's obscenity guidelines nor any state laws. Carr also supported the Institute's contention that it is exempt from obscenity laws because these do not apply to schools, museums and libraries. Reported in: *New York Times*, September 25; *Cincinnati Post*, August 27, September 7; *Chicago Tribune*, September 7; *Boston Globe*, August 1, 2, *Boston Herald*, July 7, 8, 20, August 1, 2, 9, September 5, 6, 7. □

(targets . . . from page 200)

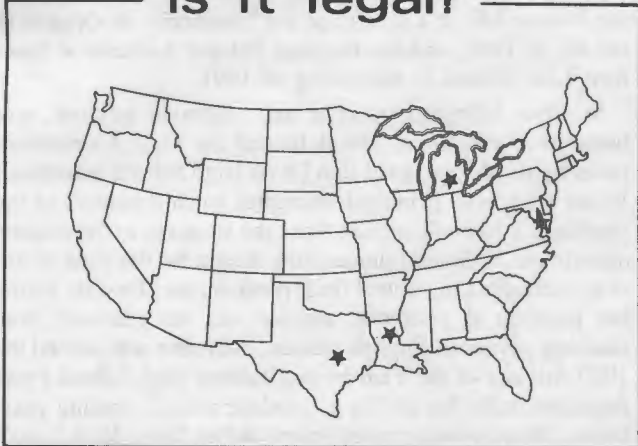
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is it legal?



record labeling

Baton Rouge, Louisiana

Saying he was going counter to practical politics, Louisiana Governor Buddy Roemer on July 25 vetoed a record labeling bill that was opposed by the recording industry and scored by civil libertarians. In announcing his veto, Roemer surrounded himself with opponents of the bill, including top record executives and Tipper Gore, head of the Parents Music Resource Center.

Roemer said he agreed with the sponsors of the bill, Rep. Tod Haik and Sen. Oswald Decuir, both Democrats from New Iberia, on the need to inform parents of the content of recordings. But he disagreed that legislating the requirement solved the problem. "Trash lyrics, and they are that — trash — explicitly referencing suicide, sex, drugs, rape and incest are potentially harmful to impressionable youth," the governor said. But he added that voluntary labeling proposed by the record industry (see *Newsletter*, July 1990, p. 121) was the appropriate way to go.

"In a free America, where speech is constitutionally protected, the best method of informing the public — and under broad parameters the only legal way — is through voluntary compliance within industry standards, similar to what the movie industry has done with success," Roemer said.

Roemer added that the record labeling bill, passed by the Legislature July 6, was unconstitutional and would only have resulted in more bad publicity for the state and a protracted and costly legal battle that would have ended in defeat.

"A veto will avoid a constitutional test, which a majority of experts believe we would lose and thereby take away the momentum for voluntary compliance," Roemer said. "A veto would also avoid the negative economic and publicity

consequences in the short term to our great state. In short, with a veto we maintain all our options, lose no time, allow maximum pressure on the industry to respond to our legitimate concerns, avoid a messy, doubtful, expensive constitutional beef, promote voluntary labeling and maintain Louisiana's strong musical heritage."

Jay Berman, president of the Record Industry Association of America, applauded Roemer's action. "The legislation would have seriously compromised the freedoms that are at the very foundations of the rich cultural heritage of Louisiana — freedoms that have made American music the most listened to and loved music in the world," Berman said. "His veto of this legislation sends a clear message that the voluntary labeling system and artistic freedom can coexist without government intervention."

The bill would have required recordings promoting deviant sex, violence, crimes of bigotry or drug abuse to be stamped with warning labels and banned for sale to minors. Reported in: *Baton Rouge Morning Advocate*, July 26.

government secrecy

Washington, D.C.

After fourteen months of investigation, a House committee concluded August 9 that the Reagan Administration had "obstructed" a \$43 million federal health study of Vietnam veterans exposed to the defoliant Agent Orange, causing the study's cancellation. A panel of federal officials and scientists halted the study in 1987, saying it was scientifically impossible to establish the levels of exposure for individual veterans. But the House committee found that military records were adequate.

The report by the House Government Operations Committee said the White House feared that if a health study found a link between the veterans' exposure to Agent Orange and any illnesses, the government could be liable for billions of dollars in compensation claims. Reported in: *New York Times*, August 10.

prisons

Houston, Texas

Texas state prison officials violated the constitutional rights of inmates by censoring a book of short stories, a lawsuit filed in Houston federal court August 15 claimed. The suit charged that officials with the Texas Department of Criminal Justice violated prisoners' rights of free speech and equal protection and showed a preference for the Christian religion in banning the book *Lineage and Other Stories*.

Plaintiffs in the suit are the Human Kindness Foundation, Inc., a non-profit corporation that distributes the book to prisoners; Bo Lozoff, the foundation's director and the book's author; and two inmates. Reported in: *Houston Post*, August 16.

university

East Lansing, Michigan

Michigan State University suspended a student who repeatedly posted a racially offensive cartoon on his dormitory door and threatened people who tore it down. The student, James Williams, was suspended by a university judiciary committee. University officials said Williams had not been punished for posting the cartoon on his own door, but for posting unauthorized material on a residence hall bulletin board. Reported in: *Chronicle of Higher Education*, June 27. □

1990 Hefner awards announced

Dennis Barrie, Hans A. Linde, Marilyn Athmann, Danny Goldberg, Paul Conrad and Studs Terkel were selected as the 1990 recipients of the eleventh annual Hugh M. Hefner First Amendment Awards, the Playboy Foundation announced September 7.

Selected by an independent panel of judges, the 1990 winners were chosen in six categories: individual conscience, law, education, arts and entertainment, print journalism and lifetime achievement. The panel of judges included Robert Scheer, *Los Angeles Times* national correspondent; Maxine Waters, California Assemblywoman; and Herbert Foerstel, head of branch libraries, University of Maryland and 1988 Hugh M. Hefner First Amendment Award winner. The winners were honored at a luncheon ceremony held October 25, 1990, in New York at the Waldorf-Astoria, where each received a Hugh M. Hefner First Amendment Award plaque and a check for \$3000.

Dennis Barrie was honored in the individual conscience category for upholding the right of the Contemporary Arts Center of Cincinnati (CAC) to exhibit works of art it finds of value. Despite organized pressure from right-wing forces and criminal indictments to prevent the museum's exhibition of Robert Mapplethorpe's *The Perfect Moment*, Barrie upheld the right of citizens to decide for themselves whether or not to view the exhibit. Director of the CAC since 1983, Barrie spent 11 years as the Midwest Area Director of the Archives of American Art/Smithsonian Institution and has served on the Midwest Art Museums Advisory Panel since 1986.

In law, Hans A. Linde, retired justice of the Oregon supreme court, was honored for his outstanding contributions to the development of state constitutional law. During his 13 years on the bench and as a professor and lecturer of law, Linde encouraged the use of the state constitution to secure greater protections of freedom of expression and religious liberty than those provided by Federal courts. Now

retired from the bench, Linde has two visiting professorships: the Wayne Morse Lecturer at the University of Oregon in the fall of 1990, and the Herman Phleger Lecturer at Stanford Law School in the spring of 1991.

Marilyn Athmann, teacher and yearbook advisor, was honored in education. She defended the First Amendment press rights of students at Ben Davis High School in Indiana. When the school principal attempted to shift control of the yearbook's football section from the students to the athletic department, Athmann successfully fought for the right of student journalists to control their publications. Despite losing her position as yearbook advisor and her removal from teaching advanced English classes, Athmann was named the 1989 Advisor of the Year by the Indiana High School Press Association for her ability to produce award-winning yearbooks. She also was granted tenure at Ben Davis High School in 1990.

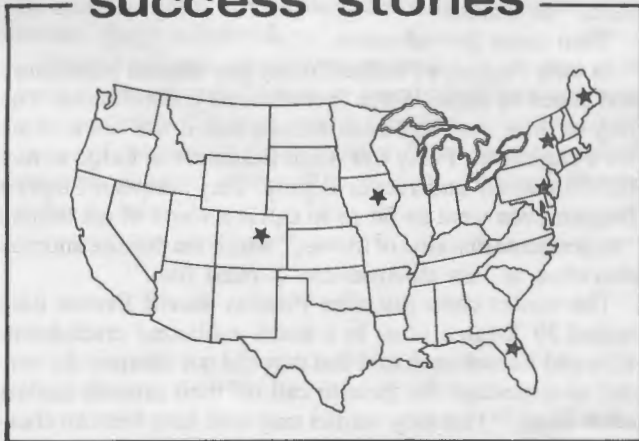
Danny Goldberg received an award in the arts and entertainment category for his energetic defense of free expression and for galvanizing opposition to record labeling. Founder and president of Gold Mountain Records and chair of the American Civil Liberties Union of Southern California, Goldberg also is cofounder of the Musical Majority, an organization of industry leaders and consumers who oppose music censorship. He has written extensively on the issue of record labeling and in support of the right of free expression for recording artists.

In print journalism, Paul Conrad, *Los Angeles Times* editorial cartoonist, was honored for using the power of his pen for 40 years to elucidate the issues of corruption in government, environment abuse, the First Amendment principle of church/state separation and the rights of the powerless. A five-time winner of the Sigma Delta Chi Award for Political Cartooning and the 1985 Robert F. Kennedy Award for Editorial Cartooning, Conrad also has received the Pulitzer Prize three times.

Finally, the lifetime achievement honor went to Studs Terkel, oral historian, interviewer, broadcaster, lecturer, author and outspoken critic of those who would inhibit free expression, who was chosen for his lifelong commitment to free expression. Host for 30 years of the nationally syndicated program, *The Studs Terkel Show*, Terkel received a Pulitzer Prize for his book, *The Good War*, a study of World War II through the voices of its participants. His most recent work, *The Great Divide: Second Thoughts on the American Dream*, discusses the ever widening gaps separating America's rich and poor and the inspired and the apathetic.

The Hugh M. Hefner First Amendment Awards were established in 1979 by the Playboy Foundation to honor individuals who have made significant contributions in the defense of the First Amendment. Eligibility is not restricted by profession, but nominees traditionally have come from the areas of print and broadcast journalism, education, publishing, law, government, and arts and entertainment. □

success stories



libraries

Muscatine, Iowa

John Fifer said he was just looking for a good book when he stumbled upon what he called "a how-to book for homosexuals" in the Musser Public Library in Muscatine. The discovery began an effort by Fifer and another Muscatine man, Jerry Henderson, to get *The Male Guide to Living Together*, by Eric Marcus, removed from the library's shelves. They also asked the library to remove at least four other titles dealing with gay and lesbian relationships and get rid of its selection of PG-13 and R-rated videotapes.

"We don't condone this type of evil," Fifer said. "I don't think it's right for taxpayers to pay for garbage like that. It's wrong to promote immorality. That's what the book does. My objection is that anybody who wants that type of book can go to the bookstore and buy it. Children shouldn't be able to take out those books at the library."

Among the other books challenged by the men are *Lesbian Couples* and *Bridge of Respect: Creating Support for Lesbian and Gay Youth*.

Author Eric Marcus said he would donate a copy of his book to the library if there were objections to spending tax dollars on it. "People like him [Fifer] are always complaining that gay people are disgusting perverts and that all we want to do is have sex in bushes and in public places and accost small children on the street," he said. "And then when I come up with a book where I talk about coupled relationships, about having responsible, supportive and productive relationships, I get slammed just the same."

The two men attended several library board meetings but found no support. Library director Marsha Tate said the book was important and filled a niche in the library's collection on alternative lifestyles. Dick Maeglin, president of the board, said the library has "materials from different directions. That's OK that [Fifer] has a different opinion. But no one religious perspective should dictate. The collections should be well-rounded."

Board member James Weaver, an associate district court judge, said the library's book selection process was adopted in accordance with ALA guidelines and would be retained. He noted that an uproar in Muscatine over the near-passage of a bill that would have provided equal protection in housing to gays might have sent some residents to the library looking for information on gay lifestyles.

"Mr. Fifer would tell you the only direction you need in that regard is the Bible," Weaver said. "But for those of us who want information from other sources as well, I think the library would be the place for that." Reported in: *Quad-City Times*, July 11; *Des Moines Register*, July 13.

school

Dover, New York

Mister Roberts is out of the brig. Jan Furman, principal of Dover Junior-Senior High School, announced that the play would return to Roger Duttweiler's ninth-grade English class as of May 14. Furman temporarily suspended study of the Tony Award-winning comedy two weeks earlier following the objection of Maryelle Sniffen, whose daughter was in the class. Sniffen objected to the depiction of women, the use of alcohol and the language in the play.

Written by Thomas Heggen and Joshua Logan, the 1948 play depicts life aboard a Navy cargo ship in the last days of World War II. It ran for over a thousand performances on Broadway and was later made into a motion picture and a television series.

School board members supported Duttweiler in his defense of the play. Lori Chamberlain, a board member, compared it to a Roman sculpture, in that it is a classic of its era, though parts may seem offensive today. Schools Superintendent J. Bruce McKenna, board members Georgia Mylock, Gail O'Brien, and board president Frank Bartolotti all supported teaching the play. But they also said Furman had done the right thing in temporarily suspending it, pending review.

Furman said she suspended the play because it was not an approved text and to make the board aware it was being taught and hear its comments. Furman said parents could still file a written complaint, after which she would appoint a committee composed of the librarian, a guidance counselor, a parent, the chair of the English Department and herself as chair. The board, however, would still make the final decision. Reported in: *Harlem Valley Times*, May 9, 16.

student press

Denver, Colorado

After spearheading an eight-month campaign, teachers Fran Henry and Marta Hedde can sit back and rest knowing that Colorado student journalists are now protected by the state's new student freedom of expression law. Colorado joins California, Massachusetts and Iowa in providing legislative protections for students' free press rights.

The new law, which was signed by Gov. Roy Romer on June 7, guarantees student free expression unless that expression is considered libelous, obscene, incites students to break the law or creates a substantial threat of disruption to the educational process.

Henry and Hedde, high school journalism teachers and publication advisers, began their campaign to curb the censorship opportunities that resulted from the Supreme Court's 1988 *Hazelwood* decision (see page 207) in October, 1989, with fellow board members of the Colorado High School Press Association. The organization soon secured the commitment of Sen. Pat Pascoe (D-Denver) to sponsor legislation in the state Senate and Rep. Jeanne Adkins (R-Douglas County) to sponsor in the House.

In February, the bill was passed in the Senate by a vote of 20-15, but opposition was waiting in the House. Opposition also was voiced by the state's two largest daily newspapers, the *Denver Post* and the *Rocky Mountain News*. But proponents of the bill, including the Colorado Language Arts Society and the Colorado High School Press Association, along with such national groups as the Journalism Education Association, Quill and Scroll, the National Council of Teachers of English and the Student Press Law Center, mounted an effective effort.

"We had so many letters that were sent to legislators right at the last minute, which really helped," said Henry. "I think the students who testified also helped change some minds about supporting the bill."

"In those districts where administrators want to control their student newspapers or use them as public relations vehicles, the law will make a big difference," Henry added. "Under *Hazelwood*, students and advisers often had to guess about what a particular administrator might find objectionable. Under Colorado law, now the rules are clear." Similar legislation was under consideration in New Jersey (see page 213) and Ohio, and was defeated last spring in Rhode Island. Reported in: *SPLC Report*, Fall 1990.

films

Clearwater, Florida

"I pride myself on having a clean community," boasts Pinellas-Pasco State Attorney James T. Russell. By clean, he means a community without X-rated films, and over the last two decades, jury after jury has affirmed his vision of

cleanliness. "I can't remember losing an obscene movie case," he claims.

Then came *Spermbusters*.

In early August, a Pinellas County jury stunned prosecutors and police by deciding that *Spermbusters* is not obscene. The jury of three men and three women said it was not a crime for a clerk at the Pussy Cat Adult Bookstore in Largo to rent the film to an undercover deputy. Jury foreman Stephen Bennett even went so far as to call it a waste of tax dollars "to persecute this kind of movie," which the defense attorney described as "an all-American X-rated film."

The verdict came just after Pinellas Sheriff Everett Rice seized 39 X-rated films in a much-publicized crackdown. Rice and Russell each said that they did not interpret the verdict as a message for them to call off their crusade against adult films. "That jury verdict may well have been an aberration," Rice said. Still, the verdict led to some reflection, according to Assistant State Attorney Bruce Bartlett.

Frank de la Grana, defense attorney in the *Spermbusters* case, said: "If a jury comes back with another not guilty, you're not going to see any more prosecutions."

John Thatch, owner of The Adult Book Store in Largo, said the verdict was a clear sign of changing attitudes. "The community standards are changing," he said, pointing to the busy patronage of his shop. "That right there is community standards. Nobody can stay in business if they're not getting any customers." Reported in: *St. Petersburg Times*, August 19.

art and photography

Portland, Maine

A federal prosecutor retreated from his case against a photograph of a nude father and son, which has been exhibited around the country for nearly three decades, and the Maine Arts Commission praised the move. "We're very pleased that he has had the wisdom to see through the process and decide not to prosecute the photograph," arts commission representative Dick Dyer said July 26 after U.S. Attorney Richard S. Cohen abandoned his effort to destroy the print.

The picture is a 1962 work by the noted photographer Walter Chappell, which has appeared in numerous galleries and in a book of American nude photography. The picture shows Chappell with his penis erect, as he holds his naked infant son next to his exposed genitals.

Cohen's case against the photograph had drawn fire from arts groups and newspaper editorialists. He said the criticism was the most intense he had received in 25 years of public life, but it played no role in his decision to drop the case.

"Having completed my review of this matter, I am satisfied, to the extent that I can be, that there is no actionable child sexual victimization implicit in or resulting from the

taking and production of this photograph," Cohen said in an announcement that he was returning the picture to its owner, Birgit Lenderink.

Federal officials seized the print earlier in the year at the border crossing with Canada as friends were trying to bring it to Lenderink. The government then filed its action, *United States of America v. One Obscene Photograph*, in federal court in Bangor, Maine. Reported in: *Portland Evening Express*, July 27.

Philadelphia, Pennsylvania

Three photographs of female nudes, removed from an art exhibit at Temple University's Harrisburg Center, were restored August 6. The unanimous decision to put the photographs back was made by a newly created four-member advisory panel, consisting of three local art experts and the center's director, who had made the original decision to remove them. In a symbolic action, the three art experts each personally replaced one of the photographs in its original spot.

The nudes were part of an exhibit of 25 black-and-white photographs by Cecil Brooks of Harrisburg and sculpture by Michael Higgins of Perry County. Deborah White, the center's director, removed them 2½ weeks earlier, after receiving complaints, mainly from students, that the abstract photographs showing pubic hair "exploited" women. Area artists responded by charging White with censorship.

Acknowledging that "mistakes" had been made, White said she created the panel after meeting with the artists and Temple vice-provost Julia Ericksen. She said she hoped the panel would serve as jury for future exhibits and as an advisory board on how the center can provide exhibit space for local artists. After the meeting, the three art representatives said they would serve on a permanent panel only if they had assurances that it would be the final arbiter of the artistic quality of works chosen for exhibit, not a review panel of art selected by someone else.

Ericksen said the group "will make decisions on what art gets hung, and if somebody objects, they will be referred to the committee." Reported in: *Philadelphia Inquirer*, August 7. □

abortion battle invades library tape collection

Library officials in Fairfax County, Virginia, found antiabortion messages, including footage of fetuses, added to the end of videotapes borrowed from their collections. The graphic messages on four or five tapes — including tapes meant for small children — were discovered in two libraries, said Library System Director Edwin S. Clay.

Library officials learned of the messages in June when a patron returned a video to the Tysons-Pimmit Regional Library and complained that an antiabortion film had been added after the credits at the end of the tape. Staff members found several other altered tapes at Tysons-Pimmit, and another patron discovered antiabortion messages on a tape at the George Mason Regional Library.

Staff members were asked to check for tampering on any tapes they use, but the 19,000 tape collection is too big to search, Clay said. Library officials erased all the messages that were found.

The tamperers could face fines for defacing county property, but library officials said they had little prospect of catching the perpetrators. To protect the confidentiality of library users, the system does not keep track of who has checked out a book or tape after the item has been returned.

"We don't want to maintain a record of what you have checked out," Clay said. "It's nobody's business but yours." Reported in: *Washington Post*, August 19. □

survey reveals 'double standard' on free speech rights

Americans overwhelmingly believe the Constitution guarantees their individual freedom of expression, but more than one-fourth say that protection shouldn't apply to the arts or the media, according to a private survey. The nationwide telephone survey of 1,500 adults in June also showed that while nearly three-fourths defended an artist's right to display works that might be offensive, fewer than 25 percent favored supporting those works with tax funds.

Robert O'Neil, founding director of the Thomas Jefferson Center for the Protection of Free Expression, said September 14 that the center's survey spotlighted "an appalling gap" in public understanding of free speech and equally protected freedom of the press.

"We found alarming evidence of a double standard, a sense that the First Amendment protects what the speaker wants to say, but not so clearly the views of others," O'Neil said, releasing the survey results at a news conference on the steps of the Jefferson Memorial.

While 90 percent of Americans believe the government has no business telling them what to say, nearly 59 percent said the government should have some power of censorship, according to the survey. In addition, more than half said the government has the right to ban the sale of recordings that favor drug use or broadcasting of sexually explicit lyrics; 84 percent favored mandatory labeling of recorded songs containing such lyrics.

The survey said between 25 percent and 30 percent of those questioned believed the First Amendment's guarantees of free speech do not cover art works, films, music, radio, cable and network television, plays, newspapers or photographs.

On federal support for controversial art, the survey showed that nearly 74 percent backed artists' rights to display works that might be offensive. But 72 percent opposed spending tax money for "objectionable" art, films, or plays, the survey said. Reported in: *Chicago Tribune*, September 16. □

Florida library censorship survey

The results of a survey conducted by the Florida Library Association Intellectual Freedom Committee reveal that at least 99 specific book titles were challenged formally or informally by library patrons in the years 1987-89. The survey, distributed in November 1989, was returned by 204 of the

association's 1,019 member libraries. Of these, 78 percent reported challenges, of which 23 were listed as originating from groups rather than individuals. According to the survey, however, over half and perhaps as many as two-thirds of the reported complaints were settled informally.

By far the largest number of complaints centered on alleged sexual content or obscene language. Suggestions of the occult and witchcraft drew the third greatest number of complaints. Fifty-five percent of reported complaints about books concerned children's and young adult books. In addition to the complaints against books, 45 complaints were cited against other materials, including 12 videotapes, 4 magazines, and 3 movies.

Thirty-nine of the survey respondents reported receiving demands to reveal circulation records. A few were requests to identify "who has the book I need for my report?" But others were serious demands by the police: "We had a request from the Sheriff's Deputies for names of people checking out books on Satanism," one library reported.

The survey also revealed some self-censorship. Eighteen FLA members said that they had avoided acquiring some controversial items. "We no longer buy even innocuous Halloween stories about witches," one library reported. Eleven members reported that their circulation policies for videos depend on the MPAA ratings. Reported in: *FLASH* (Journal of the Florida Library Association), June 1990. □

**SUPPORT THE
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Oregon IF Clearinghouse issues annual report

Challenges to twenty-five books and one music recording were reported in Oregon libraries between July 1, 1989 and June 30, 1990. The information about library challenges was released by the Oregon State Library at a press conference in Portland on Wednesday, September 26th.

The third annual report of the Oregon Intellectual Freedom Clearinghouse summarizes the reports about library challenges which are submitted by Oregon public libraries or school library media centers to the Clearinghouse. The report includes case-by-case descriptions of the challenges, and provides a three-year overview of Clearinghouse data collected about challenges against library materials in Oregon. The report also documents the assistance provided to Oregon libraries facing challenges and cooperative and educational activities of the Clearinghouse.

As reported by the Oregon Intellectual Freedom Clearinghouse, the challenge to a tape by recording artist Tone Loc was registered at a public library. This was the first account of a challenge against audio materials submitted to the Clearinghouse since it was established.

According to State Librarian Wesley A. Doak, "Library challenges in Oregon mirror objections to materials which are voiced nationwide. The explicit nature of the lyrics on rap albums have been challenged in many states. The concern over drugs in our society was also reflected in objections to drugs and the drug world being portrayed in books. While the desire of citizens to protect others from subjects which they consider offensive or harmful must be respected, librarians are committed to the principle that such protection should not infringe upon other citizens' constitutionally guaranteed rights of access."

In 1989-90, the largest number of objections to library materials focused on sexual references and themes and

graphic language. In surveying three years of data about library challenges, the Clearinghouse reported that objections on the basis of sex or language were indicated as the major objections in 33 out of 77 challenges against books or recordings.

Sixteen of the challenges reported to the Oregon Intellectual Freedom Clearinghouse in 1989-90 were against library materials owned by public libraries. Nine of the challenges were against library materials held by school library media centers. In 20 of the 26 challenges, the materials were retained in each library by decisions made by librarians, library boards, or school boards with the assistance of materials review committees. In one instance, access to materials was restricted to older children, and in one case, material was reclassified. Materials were removed from only two libraries.

Wideacre, an adult fiction paperback by Philippa Gregory, was removed from a public library. *The Horror of High Ridge*, a title in the *Choose Your Own Adventure* series, was removed from an elementary school library. Between May, 1987 and June, 1990, 59 out of 77, or 77%, of the final decisions about library challenges favored retaining the materials. Only seven books were removed from Oregon libraries in the same time period.

In reviewing the decisions about library challenges, Doak commented, "The State Library is pleased to report that in so many cases materials are retained in libraries at the completion of the reconsideration process. The principles of the First Amendment are being upheld and confirmed by staff, board members, and citizens in these instances."

The Oregon Intellectual Freedom Clearinghouse was established in 1987 by the Oregon State Library, in cooperation with the Oregon Department of Education, the Oregon Library Association, and the Oregon Educational Media Association. Each year the release of the annual report of the Oregon Intellectual Freedom Clearinghouse is timed to coincide with national Banned Books Week. □

intellectual freedom bibliography

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